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SITUATION OF HUMAN RIGHTS IN THE TERRITORY OF THE FORMER YUGOSLAVIA

Fifth periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February 1993

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Introduction

1. At its forty-ninth session on 23 February 1993, the Commission on Human Rights adopted resolution 1993/7, in which it extended the mandate of the Special Rapporteur for one year, requested that he continue to submit periodic reports as the situation warranted on the implementation of the resolution and all other relevant resolutions of the Commission concerning the former Yugoslavia.

2. Also in resolution 1993/7, the Commission requested the Secretary-General, inter alia, to assist the Special Rapporteur in his mandate by providing for the appointment of field staff in the territory of the former Yugoslavia to furnish first-hand, timely reports on the observance or violations of human rights in their area of assignment.

3. The Special Rapporteur requested the Governments of the Federal Republic of Yugoslavia, Croatia and Macedonia for their consent to the establishment of field offices in each State. Affirmative replies were received from Croatia, and Macedonia. Regrettably, the Federal Republic of Yugoslavia refused permission. In March 1993 a field office was established in Zagreb and it is hoped to open an office in Skopje before the end of 1993. When local circumstances permit it is envisaged that permission will be sought to open a field office in Bosnia and Herzegovina. The Zagreb office, currently staffed with five professional officers and one secretary/translator, deals with Croatia and Bosnia and Herzegovina. A major part of the cost of the establishment of the field programme has been met from voluntary sources and the Special Rapporteur expresses his thanks to the donors.

4. In the absence of a field office in the Federal Republic of Yugoslavia the Special Rapporteur was able to engage in fact-finding there following the consent of the Government to a mission by two staff members of the Centre for Human Rights. This took place from 13 to 26 October 1993.

5. Since the extension of his mandate and following many field trips undertaken by his staff and a mission which he himself undertook to Zagreb and Sarajevo in August 1993, the Special Rapporteur has issued four periodic reports (E/CN.4/1994/3 on 5 May 1993, E/CN.4/1994/4 on 19 May 1993, E/CN.4/6 on 26 August 1993 and E/CN.4/1994/8 on 6 September 1993). The first two of these reports draw attention to specific situations of "ethnic cleansing" and other violations of fundamental human rights in eastern and central Bosnia. The latter reports convey the Special Rapporteur's grave concern regarding the human rights situation in the towns of Sarajevo and Mostar

6. On a number of occasions, following investigation by the field staff, the Special Rapporteur has intervened with the authorities in the States of the former Yugoslavia in order to draw their attention to particular instances or allegations of human rights abuses. In each case he has urged that the situation be investigated and, where necessary, be remedied without delay.

7. The Special Rapporteur has also continued his cooperation with other agencies and bodies concerned with the protection of human rights and with humanitarian affairs in the former Yugoslavia such as the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC) as well as the Commission of Experts established pursuant to Security Council Resolution 780 (1992), and submits to them any relevant information.

8. The present report provides a wide ranging assessment of the human rights situation in Croatia, Bosnia and Herzegovina and the Federal Republic of Yugoslavia. It draws attention to the widespread abuse of the fundamental rights of residents of these States.

9. The Special Rapporteur expresses his thanks to the various bodies which have assisted him in carrying out his mandate, including the United Nations Protection Force, the office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, the European Community

Monitoring Mission, missions of the Conference on Security and Cooperation in Europe, and other intergovernmental and non-governmental organizations.

I. BOSNIA AND HERZEGOVINA

A. Introductory remarks

10. The Special Rapporteur is concerned by the continuation of "ethnic cleansing" in all its forms. He draws particular attention to mass expulsions of peoples, military attacks on civilians, abuse of women and assaults on "safe areas". Attacks on aid convoys as well as attempts to impose tasks also give cause for serious concern. There have been direct attacks, resulting in the death of aid workers and the temporary suspension of delivery. At the time of writing of the report all convoys have been suspended.

11. These violations are the subject of this chapter, which is based on information gathered from a variety of reliable sources, and on-site investigations made by the Special Rapporteur's field staff in eastern Bosnia, western Herzegovina and central Bosnia, and in Sarajevo by the Special Rapporteur himself and the field staff assisting him. Bosnian Serb authorities have not yet permitted an investigation of the human rights situation in the territories under their control.

B. "Ethnic cleansing"

12. The dynamic of destruction set in motion by "ethnic cleansing" has affected almost every area of Bosnia and Herzegovina.[1/] Much of the country is under arms and the population is increasingly polarized. The war has exhausted stocks of food and timber and seriously damaged supplies of water, energy and medicines. The onset of a second winter in such conditions threatens the lives of many thousands of civilians, especially those who have lost their homes. Food, fuel, clothing, construction materials and medicine are in urgent need.

13. Over 2.1 million people have been displaced from their homes since the war in Bosnia and Herzegovina began - nearly 50 per cent of the population recorded in the census of 1991. Some 800,000 of them are estimated to have sought refuge outside Bosnia and Herzegovina; the rest are seeking refuge inside the country. Tens of thousands have gone to the "safe areas", such as Gorazde, Zepa, Srebrenica, Tuzla, Bihac and Sarajevo.

14. The purpose of the "safe areas" was to provide people with the food and medicines they needed in places where their security was guaranteed. Relentless military action by Bosnian Serb forces, however, has turned them into areas under siege. In Sarajevo on 9 and 10 November 1993 mortar attacks killed 12 people. In the incident on 9 November two shells hit a school building in the densely populated district of Alipasno Polje, killing three children and their teacher and wounding 40 other people, most of them children. Gorazde, Bihac and Zepa have also been shelled. In Srebrenica and Tuzla in particular, supplies of food, water and fuel have been the prime objects of attack. In September 1993 fighting broke out in the Bihac "safe area" between the army and separatists who announced the formation of an "Autonomous Province of Western Bosnia".

15. Sometimes the parties to the conflict instigate or use movements of large numbers of peoples in order to achieve "ethnic cleansing". The movement of large numbers of displaced persons inside the country has been used by some parties as a pretext for further "ethnic cleansing".

16. In other areas the arrival of displaced people en masse has changed the composition of populations and sometimes heightened tension which the war had already created between local Muslim, Croat and Serb civilians.

17. Food shortages and other hardships have put added strains on the relationship between local civilians and refugees. Some local residents resent what they see as "preferential" treatment given to displaced people by aid

agencies and this has sparked conflict in Tuzla, Travnik and other major receiving centres for refugees.

18. By October 1993 the vast majority of Muslims and Croats had been driven out of Banja Luka and Doboj in the north of the country and measures to expel them from the north-east were intensifying. In the west, most non-Croats were expelled en masse from the lower Neretva valley after the alliance between Bosnian Croat forces and the Government collapsed in April 1993. Fighting has continued in central and north-east Bosnia since the Special Rapporteur's last report.

19. The process of "ethnic cleansing" taking place in parts of Bosnia and Herzegovina is inextricably linked with violations of fundamental human rights. Summary executions and arbitrary arrests and detention have continued unabated on a wide scale and rapes have been reported.

C. Rape[2/]

20. The Special Rapporteur continues to be disturbed by reports of rape and other sexual abuses. Pursuant to Commission on Human Rights resolution 1993/8 of 23 February 1993, the Special Rapporteur reports as follows.

21. At least 100 women were reported to have been raped by Bosnian Croat (HVO) soldiers between April and October 1993. This is probably an incomplete figure, because limited access to Mostar and the dispersal of refugees from western Herzegovina made it difficult to obtain information. No HVO soldier is known to have been punished for this crime.

22. Evictions from Mostar are said to have been accompanied by gratuitous sexual abuse, including rape. Typically, Muslim women have been strip-searched by male HVO soldiers before being forced across the confrontation line. On 29 September 1993 two Muslim women were allegedly raped by HVO soldiers after being strip-searched at a former tuberculosis clinic in Mostar called "the Dispensary".

23. A Muslim woman is reported to have been raped by uniformed HVO soldiers who broke into her home in Mostar in mid-July 1993, after she and her Croat husband had hidden Muslim neighbours in their apartment and helped them to escape from the city. Two Muslim women who escaped from the village of Stupni Do on 23 October 1993, alleged that they had been raped by HVO soldiers who massacred other villagers.

24. There were continuing reports from many places that women had been raped by Bosnian Serb civil and military police, as well as soldiers, but the difficulty of gaining access to Serb-held territories prevented the collection of comprehensive information.

25. On 8 May 1993 three men in military police uniform were reported to have broken into a Muslim home in Doboj and put guns to the mouths of a seven-year-old boy and his father, while one of them raped the mother at gunpoint in the next room. He is alleged to have said that because she was a Muslim he had come "to cool her down". Similar rapes have been reported from Bijeljina, Liskovac and Brcko.

26. In Trebinje on 20 July 1993 three soldiers are said to have entered the home of one of the few remaining Muslim families, forced them at gunpoint to strip naked and tied the wife's hands behind her back. They then raped her. She remained in hospital with broken ribs, a damaged lung and other internal injuries until 27 August 1993, when the family was evacuated from Trebinje.

27. Since February 1993 it is alleged that in areas of fighting Bosnian Muslim paramilitaries have raped Bosnian Croat women, apparently on the grounds of their ethnic origin. Reports of this have come from Mostar and Bugojno. It is not yet possible to estimate the full scale of sexual abuse which may have taken place, however, because access to conflict zones is limited and the refugee population has dispersed.

28. Young women have been detained for the purpose of sexual abuse by Bosnian Serb Army soldiers. In July 1993 it was reported that around 30 Muslim women were being detained for these purposes in BSA barracks in Nerici. Another 100 women aged between 15 and 17 were said to be detained in this way in the "Westphalia" coffee house near Stolina, a coffee house near Skijana and a private house in Grcica until August 1993. Recent reports suggest that detention at the "Westphalia" coffee house may have stopped.

D. Human rights violations by forces under the control of the Government of Bosnia and Herzegovina

Summary executions

29. Massacres of civilians were reported to the Special Rapporteur, allegedly committed by soldiers acting for the Government. The reports referred to killings in the villages of Trusine on 17 April 1993; Miletici on 24 April 1993; Maljine on 8 June 1993; Doljani on 27 and 28 June 1993; Bistrica in August 1993; Kriz and Uzdol on 14 September 1993; and Kopijari on 21 October 1993. The overall number of victims was conservatively estimated to be 120, but an exact total was not possible to verify.

30. All the victims were Bosnian Croats and none was reported to have offered armed resistance. In many cases there is evidence that the killings were accompanied by protracted cruelty and mutilation of corpses. Eye witnesses to the atrocities at Maljine, Doljani and Kopijari claimed that foreign irregular soldiers - so-called "Mojahedin" - affiliated to the 7th Brigade of the Army of Bosnia and Herzegovina were responsible.

31. On 16 September 1993 the Army issued a condemnation of the killings in Kriz and Uzdol and promised to punish the individuals responsible. The Special Rapporteur wrote to President Izetbegovic on 15 October 1993, welcoming this undertaking and asking for the other killings to be included in the investigation. He also asked to be told precisely what procedures were in force to subordinate irregular troops to the Army command structure and what measures were used to enforce discipline. On 22 October 1993 President Izetbegovic sent a letter in which he condemned the killings and gave assurances that an invstigation had been instigated.

32. The Special Rapporteur also received allegations of individual murders inspired by ethnic revenge. One concerned Radislav and Marina Komjenac, two elderly civilians - said to be Bosnian Serbs - who were taken from their homes in Sarajevo and summarily executed on 26 June 1993. The killings appear to have been in retaliation for a mortar attack which killed seven Muslim civilians in the old town. Government militia were alleged to be responsible. The Special Rapporteur wrote to the Government on 14 August 1993 expressing concern about the report and asking what steps had been taken to punish the perpetrators.

33. In a reply dated 23 September 1993 the acting Prime Minister, Mr. Hadzo Efendic, denied there was any ethnic motivation in the killing of the couple - whom he said were of Serb and Croat origin - and said that an investigation of the crime was underway. The Special Rapporteur will follow this case and others which have been brought to his attention.

34. The Special Rapporteur found a report in the Croatian newspaper Vjesnik on 9 August 1993 that 35 Bosnian Croats had been hanged by government forces outside a Roman Catholic Church in Zenica to be untrue.

Arbitrary arrests and detention and violations of the rights of detainees

35. Under an agreement brokered by the International Committee of the Red Cross (ICRC), the Government released 309 Bosnian Croats from Konjic detention centre on 19 October 1993. At the end of October 1993 it was holding around 1,100 detainees in 24 registered detention centres, and an unknown number of others elsewhere. The largest registered detention centres were in Tarcin and Pazaric, on the road west from Sarajevo, and in Zenica, central Bosnia.

36. Only a small proportion of the registered detainees were believed to be prisoners-of-war. The others were civilians of Bosnian Serb or Bosnian Croat origin, detained in order to provide a pool of prisoners to exchange for Bosnian Muslims held as prisoners-of-war, or for use on the front-line as forced labour, or to protect the army's advance as "human shields". During the Special Rapporteur's mission to Sarajevo in August 1993 the Minister of the Interior admitted that civilians had been arrested, but claimed they had all signed statements volunteering to be exchanged for other detainees. The Special Rapporteur stressed at the meeting that statements made in such circumstances could not be regarded as voluntary.

37. Testimony from Banovici in north-east Bosnia illustrates how civilian detainees have been used as "human shields". Between 12 and 30 May 1993 around 80 Bosnian Serbs and Bosnian Croats were arrested or drafted into the army and immediately taken to Podobala village, where they were divided into detachments and forced to dig shelters on the confrontation line between government and Bosnian Serb forces. As the shelters were dug, the government forces advanced.

38. There is no right to conscientious objection under the law of Bosnia and Herzegovina, and individuals who refused the draft in Banovici were arrested and also sent to the front-line. On 7 June 1993 five of them were injured during shelling. Detainees have also been reported killed doing forced labour on confrontation lines at Gornij Vakuf, Hrasnici, Bugojno and Travnik, among other places.

39. On 14 August 1993 the Special Rapporteur wrote to the Government to express his abhorrence of this practice. He urged the authorities to ensure that everyone under arrest had effective recourse to a court and that independent agencies be immediately informed of their case and given access to them.

40. There were allegations that some Bosnian Croat prisoners-of-war in government detention centres in Mostar and Konjic had been forced to give blood. These allegations, however, did not receive independent confirmation.

41. To date international agencies have been granted only very limited access to the "music school" detention centre at Zenica. A Bosnian Croat who was held there between April and September 1993, together with 46 others, all unregistered, alleges that he was kept without food for the first week, held in a cellar with no light for 45 days and beaten during interrogation on the legs and kidneys with telephone cables, batons and shovel handles.

Restrictions on freedom of movement

42. In August 1993 the city War Presidency announced that Croats were forbidden to leave Bugojno, a town contested by government and Bosnian Croat troops. Only 2,500 Croats remain in Bugojno since government troops defeated Bosnian Croat forces there in July 1993. Since then ethnic tension has been high. Apart from the rape incidents already noted, 16 other serious crimes against the Croat minority are under investigation. Looting and harassment of Croat civilians is reported to be commonplace, especially in the villages near Bugojno.

43. In Zenica, the authorities formally announced in September 1993 that its 23,000 Croats were forbidden to leave the city, although in practice they had been prevented from doing so since June 1993. Periodically the authorities have organized exchanges of local Croats for Muslims from the Vitez pocket and Vares. Croats have been issued false identity documents with Muslim names and driven out of the city in coaches with a military police escort. The average cost for each person is said to be DM 250, paid to city officials, military police and private entrepreneurs running the exchanges. In known cases Croat men of fighting age have been prevented from leaving with their families.

44. In Sarajevo, which is under siege by Bosnian Serb forces, most Serbs who have applied for permission to leave have been refused by the government Secretariat for Evacuations. Around 700 sick and elderly Serbs who were given permission to leave in December 1992 were allowed to go only on

8 November 1993. Fifty-nine of them are said to have died while waiting for the opportunity to leave.

Military attacks on civilians

45. Civilians in the western part of Mostar have been subjected to attack from government-held positions in the east.

Other violations of human rights and humanitarian law

46. In central Bosnia, Roman Catholic sources have alleged that church buildings in 66 parishes have been deliberately damaged or destroyed by either Government or Serb soldiers.

E. Human rights violations by Bosnian Croat forces

Summary executions

47. On 18 April 1993, at least 89 Muslim civilians in the village of Ahmici in central Bosnia were summarily executed, allegedly by HVO soldiers. The village contained no legitimate military target and there was reported to be no organized resistance to the attack. The Special Rapporteur issued a report on this atrocity in May 1993, based on an investigation carried out by his field staff.[3/]

48. In western Herzegovina the Special Rapporteur is investigating reports that nine Muslim civilians - five men and four women - were taken from their homes in Mokronoge by HVO soldiers on 9 August 1993 and shot dead at close range with machine guns.

49. On 23 August 1993 HVO soldiers opened fire on two families of Muslim civilians they were forcing across the Mostar bridge, killing one man in front of his wife.

50. The bodies of at least 15 Muslim civilians have been recovered in the village of Stupni Do in central Bosnia, where they were massacred on 23 October 1993, reportedly by HVO troops. They had either been shot at close range or burned to death and included a group of women, found still clutching each other's arms. HVO representatives denied that a massacre had taken place, and for three days prevented international observers from visiting the village.

Mass deportations and violations of human rights by means of administrative measures in western Herzegovina

51. The Neretva valley south of Mostar has traditionally been predominantly populated by Croats. By April 1993 an estimated 16,000 Muslims had come to Mostar from other parts of Bosnia and Herzegovina and at least 12,000 to other towns in the area.

52. On 15 April 1993 the Mostar city authorities adopted Statute No. 266/93, which severely restricted the provision of humanitarian relief to displaced people. An estimated 10,000 Muslims were disqualified from assistance and those living in abandoned flats were given a deadline by HVO forces to leave by 9 May 1993. In some cases the deadline was enforced with arson and threats of death.

53. The eviction of Muslim residents in Mostar began in June 1993. On 14 and 15 June 1993 alone several thousand Muslims living in west Mostar were rounded up and their personal papers - including leases for their apartments - were burned in the street. They were then forced across the bridge, under a hail of gunfire from HVO soldiers, to the eastern part of the city, which is under Government control. They were told they were being evicted to make room for Croats coming from Travnik. Forced evictions and transfers of the Muslim population in Mostar were still being reported in October 1993.

54. Deportations of Muslims from other parts of western Herzegovina began on 13 July 1993, when around 500 civilians were collected up from villages between Stolac and Capljina and forced to walk across the confrontation line with government forces between Buna and Blagaj. HVO soldiers threatened to shoot any who returned. By late August 1993, 20,000 Muslims had been forced across the line.

55. Before the expulsions took place, Croat authorities had used administrative powers to harass Muslim residents and progressively curtail their rights. These measures included widespread job dismissals from late 1992; house searches by civilian and military police in April 1993; the house arrest of Muslim men in Stolac in April 1993; the disconnection of telephones in Capljina and the requisitioning of cars by HVO soldiers on 4 July 1993. Similar activities occurred at the same time at Tomislavgrad and Livno.

56. On 13 June 1993 the Croat mayor of Capljina broadcast a radio statement saying that the lives and security of local Muslims could "no longer be guaranteed." After that normal life for them reportedly became impossible: it was dangerous for Muslims to appear in the street and they could obtain food only with the help of Croat neighbours, friends or spouses. Muslim families became targets of night-time looting by masked thugs, their property was damaged and the Capljina police provided little protection. Similar attacks were reported in the village of Gradska from mid-August 1993. The homes of Muslim families were routinely looted by night and by day military police prevented them from reporting these incidents to United Nations Civilian Police patrols.

Arbitrary arrests and detention and violations of the rights of detainees

57. The systematic arrest of Muslim men began in May 1993 and reached a peak at the end of July 1993 when an estimated 15,000 were in detention. During this period male Serbs and Roma (gypsies) living in western Herzegovina were also detained. Six hundred Muslims were freed on 19 October 1993 under the agreement brokered by ICRC. At the end of October 1993 HVO was holding 4,200 detainees in eight registered detention centres, one of the largest being Rodoc heliodrome outside Mostar.

58. Most arrestees were civilian men of fighting age, although some young boys and men over 60 were also detained. Around 6,300 Muslims were arrested in Mostar on 30 June 1993; 5,500 in Capljina between May and July 1993; 1,350 in Stolac in July 1993; and 92 in Gradska in August 1993.

59. It appeared that the arrests were part of a deliberate policy to rid western Herzegovina of non-Croats. Muslim former detainees from Capljina, arrested without a warrant in late June 1993, were forced to sign a statement saying that they would "voluntarily" leave Capljina on their release.

60. On 17 July 1993 detainees in Rodoc helidrome who had letters guaranteeing their entry to third countries were told to sign papers from the HVO Office for Displaced Persons and Refugees in Mostar saying that they wanted to leave Bosnia and Herzegovina. Even detainees without letters of guarantee were told that they should leave, on the false promise that when they arrived in the Republic of Croatia they would be resettled in a third country. Within a matter of hours, during which detainees had to see their families and pack their belongings, several hundred detainees were deported to the Republic of Croatia.

61. It was alleged that Croatian border police who stopped one convoy on 18 July 1993, took note of the number of detainees and their identity documents, if any. However, another convoy was apparently allowed to cross the border near Vrgorac unhindered. Detainees in a third convoy were allegedly transferred to Croatian vehicles at the border and given a Croatian police escort to Gasinci. These alleged incidents would indicate that authorities in the Republic of Croatia were actively involved in this deportation.

62. Muslim and Serb civilians were also detained so that they could be exchanged for Bosnian Croats held as prisoners-of-war. Detainees with a high

"exchange value", because they had relatives in the Army of Bosnia and Herzegovina, were reportedly not deported to the Republic of Croatia. Detainees were used to do forced labour in dangerous conditions, such as digging trenches and filling sand bags near confrontation zones. A number were reported killed doing this work.

63. When international agencies obtained access to HVO detention centres they found conditions of appalling brutality and degradation. Broken ribs, broken fingers, bruising and heart dysfunction were common among detainees as a result of beatings they had received from guards. A more detailed picture of conditions in these centres was given in the Special Rapporteur's report on Mostar.[4/]

64. The release of all detainees was said to be one of the aims of the Commission on Human Rights and Humanitarian Issues established within the administration of the so-called "Croatian Republic of Herzeg-Bosnia" in September 1993. Ostensibly through its good offices the detention centre at Dretelj was partly closed down at the beginning of October and a number of prisoners were released. By that time, however, the homes of most detainees from western Herzegovina had been occupied by Bosnian Croats.

Military attacks on civilians

65. The largely Muslim population held in eastern Mostar has been shelled from Bosnian Croat positions in the west of the city since August 1993, up to 400 times in one day. Also, international observers have confirmed that Bosnian Croat snipers in Mostar and western Herzegovina used against civilians especially deadly 12.7 calibre rifles with an effective range of up to one km. and equipped for night firing. On 18 April a truck loaded with explosives and driven by a Muslim driver, whose family was reportedly kept hostage, was exploded in the centre of Stari Vitez, a Muslim enclave within the Lasva valley HVO pocket. The explosion killed five civilians.

66. The mainly muslim town of Maglaj has been up to 90 per cent destroyed by Croat and Serb artillery and both forces have prevented the town from receiving deliveries of humanitarian aid for four months. Civilians have been killed when attempting to retrieve aid dropped from the air.

67. There have been direct attacks on aid workers. At least eight Muslim drivers were shot dead by Bosnian Croat soldiers or their supporters near Novi Travnik on 11 and 12 June 1993. On 14 August a UNHCR driver was killed by an HVO sniper in Stari Vitez while driving a clearly marked armoured vehicle.

Other violations of Human rights and humanitarian law

68. In early July 1993 Bosnian Croat forces imposed exorbitant taxes on foreign aid convoys. In September 1993 the Commission on Human Rights and Humanitarian Issues promised to help reopen a relief route inland through western Herzegovina. No improvement in the situation has been noted since then however and, as of 25 October 1993 400 tons of international aid remained blocked at Metkovic by Bosnian Croat authorities. Bosnian Croat forces have imposed such narrow definitions on "relief" that many essential items, such as shoes, clothing, engineering parts and emergency construction materials for winter, have not been allowed through to central Bosnia.

69. The drive to eliminate ethnic diversity has in some areas been accompanied by efforts to obliterate all traces of minority culture. In Stolac in western Herzegovina, for instance, when major expulsions of non-Croats began on 1 August 1993, four mosques were reportedly blown up. A famous 16th century mosque was destroyed in Croat-held Pocitelj on 23 August 1993, after the last Muslims had been deported from the village. On 9 November 1993 the historical Ottoman bridge in Mostar was destroyed by military action. It had been registered with UNESCO as a monument of major cultural importance and was also the only means by which water could be obtained by people in the eastern part of the town.

F. Human rights violations by Bosnian Serb forces

Expulsions and restrictions on freedom of movement

70. The expulsion of non-Serbs from Serb-held territories is in some areas nearly complete. Only 1,000 Muslims remain in Doboj, for instance, out of the 43,000 recorded in the 1991 census. In Bosanski Novi only 800 remain of the 15,000 Muslims registered there in April 1993. All non-Serbs have been expelled from villages such as Bukovica, Mala Vukovica, Tombak and Zajir.

71. Control over the movement of non-Serbs is exercised by "Commissions for Exchange", assisted in some documented cases by local Red Cross officials. Non-Serbs wishing to leave must apply to be "exchanged" for Serbs outside the area, or to be reunited with family members in other countries.

72. Non-Serbs who have a male relative in detention, or who are themselves "under a working obligation" to the authorities, may not apply to leave.

73. Since March 1993 the procedure for leaving has been regulated by instructions issued in Pale the administrative centre of the so called "Republic of Srpska". These prevent non-Serbs from leaving by car, or taking valuables with them and require them to pay for a bus seat and to renounce their citizenship. They must also pay a tax to each municipality they cross in transit.

74. The "tax" appear to have fluctuated from area to area. In June 1993, for instance, a bus seat cost non-Serbs DM 40 in Doboj and between DM 200-300 in Bijeljina. Transit taxes have ranged from DM 30 per municipality to DM 60 in Bijeljina. The average cost of surrendering a passport was DM 10. These sums have been paid to officials of the Commissions for Exchange and, in some identifiable cases, to representatives of the local Red Cross. Some individuals have been forced to leave behind close relatives, because they could not afford the cost of leaving.

75. The procedure has typically been applied in an arbitrary and brutal manner. Non-Serbs from Brcko, Bijeljina, Banja Luka and other places have told how commission officials put them on a bus at short notice with a minimum of personal belongings and forced them to surrender their house keys. The military police searched them and confiscated valuable items, sometimes with beatings. They were then driven to points on the confrontation line and forced to walk across minefields to positions held by the Government, for instance at Satorovici and in the Tuzla region. In some cases this was the fate of non-Serbs who believed they were being taken abroad to be reunited with their families. Hundreds of non-Serbs from Bjeljina and Doboj who had not even applied to leave have also been deported across the confrontation line.

76. Reports implicated authorities of the Federal Republic of Yugoslavia (FRY) in helping to expel some non-Serbs abroad. On 24 August 1993 a group of 17 Muslims was allegedly driven by bus from Bijeljina through FRY territory to the Hungarian border. A group of 33 was then reportedly taken from Bijeljina through FRY territory to the Hungarian border at Backi Breg on 29 August 1993. This report was confirmed in September 1993 by a senior member of the FRY border police. Since then FRY involvement in expulsions from Bijeljina appears to have ceased. The Special Rapporteur does not know if FRY authorities assisted in the expulsions of non-Serbs from other towns.

Summary executions, "disappearances" and other acts of violence against the person

77. Several incidents of summary execution have been of concern to the Special Rapporteur.

78. In Doboj, for instance, on 22 March 1993, BSA soldiers are said to have killed three Muslims and one Croat in Radnicka Street, shooting them first and then cutting their throats.

79. Since the Special Rapporteur's last report, numerous non-Serbs are known to have "disappeared" from their homes. Commonly their "disappearance" followed confrontations with uniformed men and within days their homes were occupied by Serbs. The corpses of relatively few have been located subsequently. One of these was a Muslim found in Banja Luka morgue on 30 March 1993, with his arms and lower lip cut, three days after he had been taken from his home by uniformed men.

80. Non-Serbs appear to have lost any claim to protection. This was illustrated on 1 August 1993, when civilian police who were called out to protect Muslim families during an attack in Liskovac, Gradiska municipality, only arrived three hours after it was over.

81. The attack lasted 90 minutes; during it, eyewitnesses report, 12 men, some in uniform, broke into a Muslim home, beat the residents and destroyed their belongings. An 80-year-old grandmother who protested was shot through the head, as were two men of the family. The 18-year-old granddaughter was then repeatedly raped. At a neighbouring house the 12 men beat and shot the Muslim owner, beat and raped his 27-year-old wife and shot her mother dead and threw her into the street. They then set fire to two more houses before leaving at 5 am.

82. A military exercise on 19 April 1993 by BSA forces with heavy calibre weapons was the culmination of 13 days of attacks against non-Serbs in the Banja Luka suburb of Vrbanja. These attacks included: the fatal knifing of a Muslim man (6 April 1993); the burning of seven Muslim homes and looting of others (11 April 1993); the shooting dead of two Muslim women bystanders by BSA soldiers returning from the front-line (12 April 1993); the shooting dead of a Muslim civilian by a man in military uniform (12 April 1993); an axe-attack on a Muslim man (14 April 1993); and sniping at several Muslim homes by military personnel (19 April 1993).

Arbitrary arrests and detention and the ill-treatment of detainees

83. By the end of October 1993 Bosnian Serb forces were holding around 500 detainees, including women, in 22 registered detention centres and an unknown number of others elsewhere. The largest number were held in the Batkovici complex.

84. Most detainees were civilians. Some had been arrested when they were on the point of leaving the territory with their families, like some 60 Muslim and Croat men detained as they were about to cross the confrontation line near Bijeljina between 4 and 11 September 1993 and sent to Batkovici detention centre. It appeared they were detained so that they could be exchanged for Bosnian Serbs held elsewhere as prisoners-of-war. Other Muslims, Croats and Roma (gypsies), have been arrested to provide a labour force in conflict zones, or to act as "human shields". In late June 1993, for instance, non-Serb men and women were arrested in their homes and on the street in the Milkovac suburb of Doboj and forced to stand as a "living wall" on the confrontation line at Putnikovo Brdo.

85. Note has already been made in paragraph 28 above of the practice of detaining women for the purpose of sexual abuse by BSA soldiers.

86. The Special Rapporteur continues to be concerned by reports of the mistreatment of detainees in registered detention centres and camps. According to testimonies of people released from Batkovici detention centre, conditions for both men and women were harsh and degrading, with constant beatings, sometimes resulting in deaths.

Violations of human rights by means of administrative measures

87. Using administrative measures alone, Bosnian Serb authorities have stripped non-Serbs of many basic human rights since 1992.

88. The right to paid employment has been made dependent on willingness to be drafted into the BSA. Those who refuse military call-up have been dismissed from their jobs and detained for up to 20 days, during which they have often been forced to work in conflict zones. Since March 1993, under instructions issued from Pale, the families of men refusing the draft have also been dismissed from their work. People without paid work automatically lose the right to housing, health insurance and a pension.

89. The instructions issued in March 1993 have made people dismissed from their jobs liable to perform unpaid labour at so-called Public Service Offices. Individuals performing a "work obligation to the authorities", as this is called, are forbidden to apply to leave the area. According to numerous testimonies, "work obligation" has involved long hours of heavy physical labour, often at confrontation lines digging shelters, or in the fields or cleaning the streets. Forced labourers from Doboj reported that they were fed only if they were made to do jobs away from their home town. Otherwise they were expected to provide their own food.

90. In Banja Luka, Doboj and other towns, civilian and military police have subjected people living in non-Serb districts to constant document checks, identifying their ethnic origin and employment status. In many cases they have been instantaneously drafted for forced labour, often without the opportunity even to contact their families first.

91. Since 1992 Muslims and Croats have also been systematically evicted from their homes, ostensibly to make room for Serbs displaced from other areas. Those serving in the BSA were largely excepted. According to testimonies of people who have left the area, since March 1993 the practice has developed of telephones of non-Serbs in Banja Luka being cut off and of their private shops being closed down. Vehicles belonging to non-Serbs in Bijeljina have been requisitioned by the BSA and farming equipment has been confiscated. Ration cards have also been withheld from non-Serbs in Doboj and Grbavica, preventing them from collecting food relief.

Military attacks on civilians

92. The shelling of Sarajevo, begun by Bosnian Serb forces 18 months ago, escalated in October 1993. As of August 1993, 264 shells had hit the central civilian hospital at Kosevo, which lies within 300 metres of the confrontation line, killing staff and patients alike. As the hospital is clearly visible from Bosnian Serb positions, at least some of those impacts must be considered intentional. On 25 October, a four-month old baby in its pram was seriously wounded by a sniper's bullet fired from a Serb-held position.

93. As has already been noted, Serb and Croatian forces have largely destroyed the town of Maglaj and have both prevented the delivery of humanitarian aid and killed civilians attempting to retrieve air-dropped parcels.

94. In towns and cities, where high buildings have offered them protection and anonymity, snipers have claimed the lives of civilians as they queued for food or water, or waited at military checkpoints.

95. In May 1993 the Special Rapporteur reported on the ambush of Muslim refugees in the Cerska valley by Bosnian Serb forces.[5] On 6 July 1993 a group of 76 Muslim civilians fleeing from Srebrenica on foot to Kladanj were reportedly ambushed twice by Bosnian Serb troops. When the 10 survivors reached the village of Turalic, they were discovered by a Bosnian Serb tank patrol. They were then allegedly fired on by the tank.

96. In Maglaj on 1 June 1993, a UNHCR convoy was deliberately shelled from the Serbian positions. Two drivers and one staff member were killed.

Other violations of human rights and humanitarian law

97. Bosnian Serbs have imposed taxes on foreign aid convoys in the same manner as the Bosnian Croat forces.

98. Five out of six mosques in Serb-held Bijeljina and almost all mosques in Banja Luka were reportedly blown up in 1993. Eyewitnesses claimed that the demolition was systematic and the sites were quickly replanted with trees.

II. CROATIA

A. Introductory remarks

99. The present report addresses the main areas of concern of the Special Rapporteur with respect to the situation of human rights in the Republic of Croatia, including the territories under the de facto control of the so-called "Republic of Serbian Krajina". The violations of international human rights standards and humanitarian law have been primarily employed as a means for "ethnic cleansing". An important indication of the scale of this practice is the massive displacement of persons primarily from areas where they constitute a minority. According to UNHCR statistics, as of October 1993 there was a total of 247,000 Croatian and other non-Serbian displaced persons coming from areas under the control of the so-called "Republic of Serbian Krajina" and 254,000 Serbian displaced persons and refugees from the rest of Croatia, an estimated 87,000 of which were situated in the United Nations Protected Areas. The situation of the refugees and displaced persons has created serious humanitarian problems and constitutes a major burden for society.

B. Arbitrary executions and "ethnic cleansing" by Croatian armed forces in the Medak pocket and other areas

100. The Special Rapporteur has received reports of arbitrary executions and "ethnic cleansing" committed by government forces in the villages of Divoselo, Citluk and Pocitelj, situated in the Medak "pocket". This area is situated in a "Pink Zone" in the proximity of UNPA Sector South. According to the 1991 Census, Divoselo, Citluk and Pocitelj had 344, 129 and 307 inhabitants respectively. Reliable sources estimate, however, that as of September 1993 the respective populations had increased to 210, 240 and 534, primarily because of the influx of displaced persons. Although the population of the villages was predominantly Serb, information received in September 1993 indicates that there were a certain number of mixed marriages between Croats and Serbs.

101. According to information gathered by the field staff during an on-site investigation, on 9 September 1993 at 6 a.m., the Croatian armed forces entered the villages of Divoselo, Citluk and Pocitelj in the Medak pocket, where they killed inhabitants and destroyed livestock, dwellings and other property.[6/]

102. Sixty-seven bodies have been recovered, while another 25 people remain unaccounted for. The examination of several bodies by medical experts indicates that they were shot at close range. Three other victims were killed by rocket missiles. Some of the bodies were mutilated and bear signs of possible torture, including serious burns. It appears that most of the victims were civilians, including a number of elderly persons. Some of the bodies were in uniform but they were identified as inhabitants of the village. The victims also included at least nine women, seven of whom were elderly, but no children (apparently the children had been evacuated before the attack occurred).

103. The field staff obtained testimony from several witnesses to the killings. A Croatian inhabitant of the village claimed that while she was hiding she witnessed members of the Croatian armed forces throw a hand grenade into a house, after which an elderly woman came out with her clothes on fire. The witness stated that the soldiers then allowed the woman to burn to death. Another inhabitant of the village testified that a member of the Croatian armed forces shot an 83-year-old woman at close range.

104. Eleven hamlets in the pocket were either entirely destroyed or sustained heavy damage. They were Sitnik, Drijici, Vuksani, Donje Selo, Uzelci, Raicevici, Rogici, Budici, Licki, Citluk and Krajinovici. Several inhabitants of the affected villages testified that apart from shelling civilian objects, upon entering the villages, the Croatian armed forces continued their systematic destruction with explosives, including grenades and mines.

105. In a letter dated 1 October 1993, the Special Rapporteur pointed out to the Government that these acts were in violation of international law and requested a full investigation, the attribution of individual responsibility and punishment of the perpetrators. In a letter dated 9 October 1993, the Deputy Prime Minister and Minister for Foreign Affairs informed the Special Rapporteur that, on the basis of the Government's preliminary investigations, "the persons killed in the action", including the elderly, "were all killed in combat". It was stated that the Government had established an enquiry into the incident. In a subsequent letter dated 12 October 1993, the Government informed the Special Rapporteur that in order "to achieve [the] maximum degree of impartiality" in the investigation, two officers who had been involved in the incident had been suspended. In this regard, the Special Rapporteur also wishes to mention that the Commission of Experts established pursuant to Security Council resolution 780 (1992) has conducted an investigation of the Medak incident.

106. The Special Rapporteur has received reports that after an attack by Croatian government forces on 6 September 1993 against the village of Mirlovic Polje in the region of UNPA Sector South, seven elderly civilians of Serbian origin were found dead in the nearby hamlet of Donje Selo, four of whom were executed and three of whom were apparently burnt to death.

107. The Special Rapporteur also notes with concern the many reports which he has received indicating the continuing support by the Republic of Croatia for Bosnian Croat forces which have been responsible for "ethnic cleansing" and other grave violations of human rights in the areas under their control in Bosnia and Herzegovina.[7]

C. Other violations of the right to life

108. The field staff have received several reports of the killing of Serbs, where it is alleged that the Croatian authorities have failed to conduct a proper investigation or to prosecute those responsible. In one case, for instance, it was reported that on 30 July 1993 an elderly Serb woman was murdered and mutilated in her apartment in the centre of Sisak. The police did not conduct a full investigation and declined to inform the family about the results. Furthermore, the neighbours of the victim were afraid to disclose information about the identity of the perpetrators, especially after the police had approached them.

D. Arbitrary detention and the right to a fair trial

109. The field staff of the Special Rapporteur have learned of cases of arbitrary detention and violation of the right to a fair and public trial by a competent and impartial tribunal.

110. The Special Rapporteur has followed with concern the case of a Serbian employee of the UNOV/UNDP Social Reconstruction Programme, who having previously received clearance from the Croatian police, was arrested while on duty in Pakrac on 1 September 1993, in a United Nations Protected Area. He was detained on a charge of "armed rebellion", without any indication of the specific accusation against him. Furthermore, his lawyer was denied access to any evidence or witnesses against him and was given only 12 hours to file the appeal against the detention order. The authorities also indicated that he would be tried in camera by a military court. In a letter dated 24 September 1993, the Special Rapporteur appealed to the Government to ensure "that at the least all necessary measures be taken to ensure a fair and public trial by a competent and impartial tribunal". In a letter dated 4 October 1993, the Government assured the Special Rapporteur that the investigation and trial would "be conducted in compliance with the laws of the Republic of Croatia" and

on 24 October, released him after granting an "amnesty" for his alleged activities.

111. In another case which the field staff have investigated, a Croatian citizen of Serbian origin was arrested on 12 December 1992 in Zagreb on the charge of having tortured Croatian prisoners-of-war in the Glina camp. The accused was ultimately tried before the District Court of Zagreb where on 18 February 1993 he was sentenced to 12 years imprisonment although no substantial evidence was produced against him. In spite of being convicted as a civilian, he was exchanged under duress as a prisoner-of-war before his appeal could be heard by the Supreme Court.

112. Another case which was investigated by the field staff involved thirteen ethnic Serbs who on 12 December 1992 were charged with "attempting to use force or other illegal means to dismember a part of the territory of the Republic of Croatia or to integrate a part of the territory into another State", pursuant to section 236(b) of the Croatian Criminal Code. It was alleged that they "organized a military cell and a committee which maintained relations with the JNA; that they acquired arms; gathered and transmitted information [to the JNA]; printed leaflets warning the Serbs to be cautious; organized a plan of defence and means of evacuation; and other enemy activities".

113. The trial commenced in Dubrovnik on 23 March 1992 before the Military Court of Split. Of the 13 accused, only one was present. The others had either left Dubrovnik already or had been exchanged as prisoners with the Serbs. The defendant present was acquitted on all charges by the Court. The others were tried in absentia and sentenced to short prison terms.

114. According to one of the defence lawyers, the trial was conducted in accordance with all the relevant procedural rules of Croatian law. Nevertheless, the conviction of the 12 individuals in absentia, as well as the circumstantial nature of the evidence, raises doubts as to the fairness of the procedure. Furthermore, since the alleged acts were said to have been committed between March and July 1991, prior to the entry into force of the legal system of the Republic of Croatia on 8 October 1991, the Criminal Code was applied retroactively.

E. Citizenship

115. Citizenship continues to be an area of concern. Further to his previous consideration of this issue, the Special Rapporteur wishes to draw attention to certain aspects of the Croatian citizenship law because of its human rights implications, as well as the indications therein of similar trends in the citizenship legislation of other States of the former Yugoslavia.[8/]

116. Given the context of partial State succession in the case of Croatia and other States of the former Yugoslavia, a fundamental issue is the definition of the category of individuals who at the time of succession constitute the initial body of citizens. Article 30 of the Croatian Law on Citizenship uses the term "Croatian citizen", defined as "a person who has acquired this status according to the Laws valid until the taking effect of this Law". This refers to those citizens of the Socialist Federal Republic of Yugoslavia (SFRY) who enjoyed "republican citizenship" of the "Socialist Republic of Croatia" and who renounced it in favour of citizenship in the Republic of Croatia by 8 October 1991.

117. In practice, however, republican citizenship within SFRY was essentially symbolic and had little or no legal effect. Article 249 of the 1974 Constitution of Yugoslavia provided that "Yugoslav citizens shall have a single citizenship" and that "Citizens of a republic shall on the territory of another republic have the same rights and duties as the citizens of that republic". Furthermore, republican citizenship did not necessarily coincide with the republic in which an individual was born or enjoyed permanent residence, even if such individual always had his or her domicile in the republic.

118. Despite the foregoing factors, the Head of the Administrative Committee of the Ministry of Internal Affairs, in a meeting with the field staff of the Special Rapporteur, explained that the Croatian Law on Citizenship was based on a policy of "continuity" between citizenship obtained from the previous Socialist Republic of Croatia (a constituent unit of SFRY) and citizenship of the Republic of Croatia. This policy has had the effect of arbitrarily relegating to the status of aliens all those SFRY citizens who enjoyed lawful residence in the Socialist Republic of Croatia, but who did not enjoy Croatian republican citizenship.

119. An exception to the foregoing rule applies to those who are deemed to be members of the "Croatian people". Article 30 of the Law on Citizenship provides as follows:

> "A member of the Croatian people who, by the date on which this law takes effect, is not a Croatian citizen and on the said date has a registered place of residence in the Republic of Croatia, shall be deemed to be a Croatian citizen if he or she issues a written statement that he or she considers himself or herself a Croatian citizen."

120. Furthermore, article 16 of the Law on Citizenship provides that citizenship may be acquired on the basis of the foregoing criteria even for those members of the "Croatian people" who do not have a place of residence in the Republic of Croatia and/or previous SFRY citizenship. By contrast, those who do not belong to the "Croatian people" must satisfy more stringent requirements through naturalization in order to obtain citizenship, even if they have previously enjoyed lawful residence as SFRY citizens in the territory concerned.

121. According to official sources, where it is necessary to determine the ethnic origin of an applicant, the best indication of belonging to the "Croatian people" is a previous declaration of Croatian nationality (i.e. Croatian ethnic origin) in an official SFRY document. In cases where there is no previous declaration of nationality, the Croatian authorities are placed in the position of determining on the basis of other criteria whether an applicant for citizenship is "Croatian". In particular, this raises serious problems in the case of those individuals from mixed marriages who either did not declare their nationality or who declared themselves as "Yugoslav". The spectrum of proof which may be adduced ranges from prima facie evidence (Croatian surname) to investigations into the private life of individuals (religious affiliation, social activities, etc.) in order to determine whether the applicant is a member of the "Croatian people".

122. The Croatian authorities have repeatedly justified the policy of ethnic differentiation in the conferment of citizenship by comparing Croatian legislation with the legislation of other States which they say make similar distinctions on the basis of descent. It is, however, imperative to distinguish between the citizenship law of a State dealing with immigration under ordinary circumstances, where the applicant may have no social attachment to the territory concerned, as opposed to a new State where denial of citizenship on the basis of ethnic or national origin affects those who have previously enjoyed citizenship of the predecessor State and lawful residence on the territory concerned.

123. According to government sources, as of 12 May 1993, 12,708 applicants had been denied citizenship. Of these 7,500 were ethnic Serbs and 5,208 belonged to other groups. Apparently, the statistics offered by the authorities only refer to those applicants who have actually applied for citizenship and been refused. In their investigations, the field staff have come across several cases of procedural obstruction where competent organs and officials have refused even to consider applications, almost always because of the ethnic origin of the applicant. Another cause of concern regarding application for citizenship is that, pending the successful outcome of an application, the applicant, even if he previously enjoyed lawful residence in Croatia as a SFRY citizen, is considered as an alien and denied rights such as social allowances, including medical care, pensions and free education, and employment in the civil service. In practice, since the application procedure may take a

considerable time, many applicants have been forced to leave Croatia because of financial pressures.

F. Illegal evictions

124. The field staff of the Special Rapporteur have received and verified reports of illegal evictions from State-owned apartments in Croatia. Many of the evictions have been carried out by the military police without prior legal proceedings. In some instances violence was employed. Furthermore, the Housing Commission of the Ministry of Defence (hereafter referred to as the "Housing Commission") has often refused to address individual complaints.

125. It also appears that rulings by courts for the reinstatement of tenants have not been observed by the military police. The field staff have received an official notice dated 20 July 1993 in which the registrar of the Municipal Court of Rijeka testifies that "the execution of the court order [to reinstate the unlawfully evicted tenant] was not acted upon because the military police did not obey the writ given by the court" on the grounds that they "have different orders from their superiors".

126. According to information received from representatives of the Housing Commission, since the adoption of the Law on Provisional Use[9] legal proceedings for 280 evictions have been initiated; only 165 have been executed and 115 have been postponed. According to the Housing Commission, although 85 per cent of JNA apartment units had been given to Serbians under the former regime, the ethnic composition of those evicted was as follows: 50 per cent Croats; 40 per cent Serbs; and 10 per cent others.

127. In 3,120 instances, proceedings have been initiated against "enemies of the State" pursuant to article 2 of the Croatian Law on the Modification and Supplementation of the Law on Apartment Relations (Narodne Novine, No. 22, 17 April 1992, p. 538; unofficial translation; hereinafter referred to as the "Law on Modification"), which stipulates that article 102(a) is incorporated into the Croatian Law on the Use of Apartments providing that subject to a court decision: "The right of tenure terminates for those who participated or participate in an enemy activity against the Republic of Croatia". In practice, however, Serb tenants suspected of being an "enemy" are often evicted on the basis of summary decisions of the Housing Commission, without any legal proceedings before a competent court. This is despite the stipulation of the Attorney General of the Republic of Croatia that decisions concerning the allocation of apartments for provisional use by the Housing Commission are not executable when those apartments are occupied (letter dated 12 February 1993 addressed to the Chief of the Military Police). Furthermore, article 105 of the Law of Tenancy Relations clearly provides that evictions require proceedings in a court of law.

128. The Special Rapporteur wishes to acknowledge the commendable efforts of local authorities, such as those of the City Council of Pula, which have decided to stop all evictions until the Administrative Court of Croatia delivers a judgement on the lawfulness of each individual case.

129. During a meeting with the Housing Commission in August 1993 the Special Rapporteur expressed his concern about illegal evictions. The authorities acknowledged that illegal evictions had taken place and assured the Special Rapporteur that disciplinary and penal measures had been taken against members of the military police. The Commission stated, however, that many illegal evictions were committed by displaced persons from the UNPAs who "take matters into their own hands" and that, consequently, the authorities "must demonstrate understanding to those whose families have suffered from the Serbs" and especially "when it is well-known that the tenants are active on the enemy side".

130. Apart from illegal evictions, the Special Rapporteur is also concerned with aspects of housing legislation which have adversely affected the rights of tenants, often on a discriminatory basis.

G. The destruction of property

131. According to government sources, numerous buildings belonging to Croatian citizens of Serbian ethnic origin have been damaged or destroyed by explosives, arson or other deliberate means. A total of 7,489 such buildings were damaged or destroyed during 1992 and from January to March 1993 a total of 220.

132. According to government sources, criminal proceedings have been initiated against 126 individuals of Croatian ethnic origin, 13 individuals of Serbian ethnic origin and 8 individuals belonging to other ethnic groups. Nevertheless, on the whole, the authorities have not demonstrated a serious willingness to suppress such acts. This reluctance is exemplified in a statement made by a high-ranking government official to the effect that such destruction is "understandable" in view of the "righteous rage" of the Croatian people against the Serbs.

H. The situation of the media

133. The situation of the media in Croatia is affected in many respects by the prevailing climate of national and religious hatred which is often encouraged through misinformation, censorship and indoctrination. There also appears to be considerable self-censorship and one-sided "sensationalism" among journalists. The Government has considerable influence over the media. The Council for the Protection of the Liberty of the Press envisaged in article 23 of the Law on media of 1992 remains to be established.

134. The wilful dissemination of false information with the intention to disrupt public order is a crime according to Croatian legislation. The Special Rapporteur has received reports that such legal provisions have been applied abusively by the authorities in order to repress dissent. Furthermore, although article 16 of the Law on the Media of 1992 provides that "nobody enjoying immunity from prosecution may be appointed as editor-in-chief" of a media organ, a member of the State legislature belonging to the majority HDZ party was appointed as the editor-in-chief of the newspaper Vjesnik in January 1993, although he was replaced in July 1993. However, the Government has not yet replaced a member of the State legislature belonging to the HDZ party who was appointed as the Director-General of Croatian Radio and Television (HRTV) in 1991, prior to the adoption of the Law on the Media.

135. The only television station operating at the national level (HTV) is under State control. There are four private television stations at the local level and several private radio stations. It remains to be seen whether the draft law on telecommunications proposed by the Government will grant effective private access to national television frequencies. Although there are several private newspapers, the Government exercises considerable control over the press. It appears that the Law concerning the Transformation of Social Property Enterprises of April 1991 has been used by the Government in order to gain control over major newspapers such as Slobodna Dalmacija. The Vjesnik publishing firm and the Tisak distribution firm, both under the control of the State, appear to have a monopoly at the national level. The economic situation and the lack of local capital and foreign investment is also an impediment to the progressive development of an independent media.

I. The situation of the Muslim minority and refugees

136. Since the last report of the Special Rapporteur, the situation of the Muslim minority and refugees in Croatia has become an area of concern. According to the 1991 census, 43,469 persons or 0.9 per cent of the population of Croatia identified themselves as Muslims. The largest concentrations of Muslims were in Zagreb and Rijeka: 13,100 persons or 1.4 per cent of the population and 13,340 persons or 2.3 per cent of the population, respectively. The largest proportion was in Dubrovnik where 2,866 or 4.0 per cent of the population were Muslims. The massive influx of refugees from Bosnia and Herzegovina into Croatia since the war has significantly increased the number of Muslims. At present, of the 276,548 Bosnian refugees in Croatia, an estimated 200,000 are Muslims.

137. Since the intensification of hostilities between Bosnian Croat and Bosnian government forces in April 1993, the Croatian media regularly refers to Muslims as "aggressors". Furthermore, coverage of atrocities committed in the conflict between Bosnian Croats and Bosnian Muslims appears to be selective and one-sided, without a serious concern about the veracity of information. For example, as already noted at para. 34, Vjesnik reported on 9 August 1993 that 35 Croats were hanged in front of the Catholic church in Zenica. The field staff made an on-site investigation in Zenica and found no basis whatsoever for such an allegation. Incidents of discrimination and violence against Muslims in Croatia are also rarely reported in the press.

138. The situation of Muslims is particularly difficult in the Dalmatian coast area where Croats from Herzegovina are in an increasingly influential position. Muslim clerics and others in a position of authority have been repeatedly harassed and threatened by local police and other authorities. It has also been reported that in the cities of Dubrovnik, Split and Zagreb, as well as in other areas, shops and homes belonging to ethnic Muslims have been damaged or destroyed. For the most part, the police do not demonstrate a serious willingness to suppress or punish such acts.

139. There have been reports that many Muslims in Croatia have been denied citizenship although they were either born in Croatia or had lawful residence in Croatia for several years. In the villages of Rajevo Selo and Gunja in the district of Zupanja on the border with Bosnia and Herzegovina, almost 200 Muslims are said to have been denied citizenship. In many cases which have been verified by the field staff, some members of a family have been arbitrarily denied citizenship while others have not. Therefore, a considerable proportion of the Muslim population in this district is affected. Since many of these individuals live in a predominantly rural area, some are not aware of the possibility of resorting to legal proceedings in order to appeal their case.

140. On 29 July 1993 the field staff of the Special Rapporteur received reports that Bosnian refugees in Zagreb, Samobor, Split, Pula, Varazdin and the island of Obonjan were being expelled from Croatia to Bosnia and Herzegovina. In one verified case the civilian police arrested a large number of refugees in Zagreb. The Croatian authorities explained that they were conducting a police operation against "illegal" refugees without documents. However, most of the individuals arrested had been previously registered by the Croatian authorities while others had appropriate UNHCR documents.

141. Fifty-two of the refugees were taken to the border with Bosnia and Herzegovina where they were handed over to the Bosnian Croat (HVO) military police and detained. The detainees were predominantly Muslims, who were told that they would be exchanged for Croat detained by the Bosnian government forces. There were reports of abuse and torture in the detention centre, as well as dangerous labour on the front line.

142. In a letter dated 2 August 1993, the Special Rapporteur expressed his "grave concern" about the expulsions and indicated that it constituted "a serious violation of international human rights standards in general and of the non-refoulement principle in particular". During meetings with the Special Rapporteur in August 1993, high-ranking officials of the Croatian Government gave assurances that such expulsions would not occur again.

143. There continue to be isolated incidents of individual expulsions by the Croatian police, especially in the area adjacent to Herzegovina. Thus, for instance, the field staff have received a report that on 28 August 1993, a Bosnian Muslim was arrested by Croatian police in the city of Trogir. Although all of his documents were in order, he was sent to the border crossing at Kamensko, where he was allegedly handed over to the HVO military police. UNHCR, which has consistently objected to the expulsions, is involved in ongoing efforts with the Government and with the Bosnian Croat authorities to secure the readmission of all expelled refugees to Croatia. As a result of repeated protests by UNHCR, and with the cooperation of the Government, some

refugees have already been readmitted to Croatia upon their release by the Bosnian Croat authorities.

J. The situation in the United Nations Protected Areas

144. In areas under the control of the so-called "Republic of Serbian Krajina", the organized and massive "ethnic cleansing" of Croats and other non-Serbs is largely a fait accompli. Nevertheless, a climate of hostility and abuse against the remaining ethnic minorities exists and they continue to leave the UNPAs.

145. The prevailing lawlessness, as well as economic pressures, encourages acts of violence and harassment by individual criminal elements or small criminal groups who take advantage of the hostility against Croats for personal gain. The Knin authorities have not demonstrated a serious willingness to repress such acts. In particular, members of paramilitary groups, such as the Territorial Defence Forces, appear to enjoy a considerable degree of impunity. As a general rule, the level of violence and harassment against Croats increases during periods of active hostility. They have frequently been the victims of retaliations for actions of the Croatian armed forces.

146. The Special Rapporteur has received several reports concerning intimidation and harassment by the Knin authorities of those Serbs considered as "spies" and "traitors" because of their involvement in reconciliation with Croats.

UNPA Sector South

147. According to information received by the Special Rapporteur, at present there are 1,161 ethnic Croats resident in Sector South and the Pink Zones; 44,000 ethnic Croats inhabited the area in 1991. The largest Croatian community within the Sector is the village of Podlapaca in the area of Korenica. The village of eight hamlets has 116 ethnic Croats. They have been subjected to abuses including killings, looting and the confiscation of farm equipment. It is reported that only eight inhabitants wish to remain in the area. For reasons of security many inhabitants spend the night in the homes of those who live close to the UNPROFOR base. The Knin authorities, however, have reacted to some complaints and have arrested and detained suspects in the murder of four Croats from Podlapaca. They have not as yet however identified suspects, allegedly wearing the uniform of the Territorial Defence Forces, implicated in the murder of Croats on 12 July and 6 September 1993 in Podlapaca.

148. Another area of concern is Drnis and Vrlika where, in particular after the Medak pocket incident, the mainly elderly ethnic Croat population has been subjected to abuse and harassment. In this area, the Knin authorities have either been unable or unwilling to provide adequate protection against such incidents and have denied access to United Nations Civilian Police (UNCIVPOL). Conditions are better in areas such as Bruska within the municipality of Benkovac, where the authorities provide some degree of protection against human rights abuses. There are 18 imprisoned ethnic Croats in Laskovica and 30 in Sonkovic. In the area of Knin and Korenica, several religious sites have been extensively damaged.

149. According to the local Red Cross, as of 29 June 1993 there were a total of 34,636 displaced persons and refugees in Sector South and the "Pink Zones". It is reported that 11,491 were displaced as a result of the hostilities on 22 January 1993. Of the total population of displaced persons and refugees, all are ethnic Serbs with the exception of 136 Croats and 66 others.

UNPA Sector North

150. There have been several reports of harassment and intimidation of the estimated 1,500 to 2,000 Croats remaining in this area, which has a total population of approximately 70,000. During a visit to the area in May 1993, the field staff were informed by reliable sources that there were at least 35 non-Serb detainees at a detention centre in Vojnic. The grounds for detention

are usually "disciplinary measures" and "illegal border crossing". Reports were also received that two persons who had disappeared from the Croatian village of Maja, near Glina, had been found dead.

151. The Special Rapporteur has also received reports of the killing of Serbs. On 23 May 1993, the bodies of three Serb civilians who had apparently been killed in an ambush were discovered near the village of Gora, in the vicinity of Petrinja. They had been shot at close range. On 26 May, during a visit of the field staff to the Sector, another four bodies were discovered in the same area. They were uniformed and appeared to have been killed by bullets in the head while lying face down on the ground. In another incident, on 14 July 1993, 4 civilians were killed and 27 injured when a passenger train hit an anti-tank mine while crossing a bridge west of the town of Glina. Although the specific identity of the perpetrators has not been determined in any of these cases, it is alleged that all of these acts were committed by "Croatian infiltrators" from outside the UNPAs.

152. During a visit to Sector North in August 1993, the Special Rapporteur held meetings with UNPROFOR officials and discussed the issue of repatriation of displaced Croats. It was clear, however, that such repatriation could not be secured in view of the prevailing climate of hostility and militarization. The Special Rapporteur himself was witness to the destruction of a Croatian home during his visit.

UNPA Sector West

153. Approximately 15,000 Croats, as well as 1,300 Serbs who have fled Sector West, are presently registered as displaced persons in the Republic of Croatia. In addition, it is estimated that there are 15,000 Serbian displaced persons who have fled to Sector East. In Sector West itself, there were 12,301 displaced persons as of 30 April 1993, of whom 4,946 were in the areas of Sector West under Croatian control and 7,355 in areas under the control of the Knin authorities.

154. In areas of Sector West under Croatian control, there have been reports of continuing discrimination and harassment against Serbs. In one case of discrimination in April 1993, the Daruvar local authorities adopted a decision to prevent Serbian displaced persons who had allegedly participated in the 1990 Referendum on the Cultural Autonomy of Serbs to benefit from assistance provided by the Daruvar Social Welfare Office. Through the coordinated actions of UNPROFOR and UNHCR, this decision was revoked by the Croatian Government Commissioner for Daruvar.

155. In the areas of Sector West under the control of the Knin authorities, there are approximately 35,000 to 40,000 inhabitants, of whom 500 are ethnic Croats. According to the Knin authorities, approximately 30 per cent of the population are displaced persons. During a meeting with the field staff, the Knin authorities complained that UNPROFOR had not allowed them to realize the resettlement of 6,000 displaced Serbs in "empty" Croatian villages.

156. Because of their participation in confidence-building measures with the Croatian Government, some Serbs in Sector West have been stigmatized as "traitors". On 21 September 1993, two former high-ranking members of the Knin authorities were accused of cooperation with Croats and arrested because of their participation in a social reconstruction project co-sponsored by UNOV/UNDP and a non-governmental organization. A Serb who was the manager of the project was also arrested.

UNPA Sector East

157. According to figures in the 1991 census and a 1993 UNCIVPOL census, the Croat population of the Sector has dropped from 46 per cent of the total to approximately 6 per cent, whereas the Serb population has increased from 34 per cent to approximately 73 per cent. During the same period the census figures indicate a drop of approximately 44 per cent in the Hungarian population, from 10,131 to 5,765.

158. There continues to be a flow of displaced persons out of the Sector because of intimidation, family reunification and economic pressures. Offences against minorities include unlawful killings, arson, armed robbery and looting. Out of 53 known cases of unlawful killing of Croats committed in the period between May and December 1992, only five have been investigated and brought to court. There are reports of brutal beatings by the local militia, as well as the forcible recruitment of non-Serbs into the armed forces. In several reported cases, those who have refused recruitment have been beaten, imprisoned and even killed.

159. Another area of concern is the discriminatory treatment of Croats in regard to medical care and food. At the Vukovar hospital, it was reported that several Croatian patients were denied adequate amounts of bandages and even anaesthetics. One elderly Croatian woman, who was in a critical condition after a suicide attempt was refused a blood transfusion by the medical staff of the hospital and died the following day. It is also reported that the local Red Cross in Baranja has openly discriminated against minorities in the distribution of food.

160. Seven Catholic churches have been destroyed in Sector East and during July 1993 the church building in Ilok was attacked on three occasions.

K. Shelling of civilian areas by the parties to the conflict

161. The armed forces of the so-called "Republic of Serbian Krajina" have engaged in the deliberate and systematic shelling of civilian objects in Croatian towns and villages. According to Croatian sources, between April 1992 and July 1993, Serbian shelling resulted in a total of 187 civilian deaths and 628 civilian injuries. These sources also allege that during the period between 1991 and April 1993, an estimated total of 210,000 buildings outside of the UNPAs were either seriously damaged or destroyed, primarily as a result of shelling.

162. In the Dalmatian coast area, Zadar, Sibenik, Biograd, Tribunj, Filipjakov and the surrounding area have sustained particularly heavy damage. In other areas, Gospic, Karlovac, Ogulin and surrounding areas have been heavily affected. On certain days, some areas have sustained several hundred impacts. There have been numerous civilian deaths and injuries and extensive damage to civilian objects including schools, hospitals and refugee camps, as well as houses and apartments.

163. On 14 September 1993, the field staff of the Special Rapporteur visited Karlovac to investigate damage from shelling. They observed that civilian objects, including a hospital and a refugee camp which were apparently not situated in the proximity of a military object, had been deliberately shelled from Serbian positions within visual range of the targets. In the case of the "Gaza" refugee camp, at least three civilians were killed as a result of such attacks. The field staff also inspected the damage caused by a 500 kilogram "Frog-7" missile, which on 11 September had hit a residential area in Lucko, in the immediate vicinity of Zagreb.

164. The Special Rapporteur has received reports that Croatian forces have also engaged in the deliberate shelling of civilian areas including the villages of the Medak pocket, the village of Baljci near Drnis, the village of Vrlika near Sinj, the village of Biljane Gornje near Benkovac, Ravni Kotari and Knin.

III. THE FEDERAL REPUBLIC OF YUGOSLAVIA

A. Introduction

165. In the absence of a field office in the Federal Republic of Yugoslavia, the Special Rapporteur has relied on information collected through the Centre for Human Rights at Geneva and during a visit by two staff members to Serbia and Montenegro between 13 and 26 October 1993. They visited Belgrade, Pristina, Novi Pazar, Novi Sad and Podgorica, meeting officials of the Federal,

Serbian and Montenegran Governments, private individuals and representatives of national non-governmental organizations and of international organizations.

B. Serbia

Security of the person

166. The use of brutal and excessive force by the police has been reported to the Special Rapporteur throughout the Republic of Serbia. These reports come from lawyers, victims, human rights organizations in Belgrade, Kosovo and Novi Pazar and the independent Yugoslav press (notably Vreme and Borba). Abuses occur in both political and criminal cases where individuals are held in custody and involve both the regular police and security officials. Further, it appears that police use excessive force both in searches and in random encounters with the public.

167. The Special Rapporteur's staff interviewed seven Albanians in Kosovo who had been released from custody within the last two months, took testimony which described beating and torture and saw physical marks consistent with these facts. They considered reports of police use of excessive force during a political demonstration in Belgrade on 1 June, interviewed one person who had been severely beaten on that date and saw a medical certificate. In Novi Pazar they were informed that police used excessive force during the investigation of political cases and that the majority of those who passed through police hands in other cases were beaten.

168. In the middle of October, the issue of police brutality was publicly discussed in Belgrade through the case of an actress, Nadeza Bulatovic, whose upper arm and nose were broken when she was taken from a food queue and beaten by police after she had questioned the manner of flour distribution. The decision to prosecute the responsible police officers is seen as an exceptional measure, taken because of the publicity given to Ms Bulatovic's case, while Borba described the behaviour of the police as reflecting a trend to "intimidate the public" which had begun with the police reaction to the June 1993 demonstration (see below). A Belgrade lawyer told the Special Rapporteur's staff that it was common for criminal suspects to undergo brutal physical treatment which verged on torture.

169. The Criminal Procedure Code of SFRY, which still applies, provides that a person suspected of committing a criminal offence may be held in custody for no longer than 72 hours. The Prosecutor must be informed at the outset, but there is no access to a lawyer during this period. After 72 hours, the suspected person must be brought before an examining judge, who decides on the investigation and whether there are grounds for maintaining detention. At this point legal access is allowed. These two decisions must be taken within 24 hours; and the detained individual and the defence lawyer must be informed of the decisions. The Law on Internal Affairs of the Republic of Serbia of 17 July 1991 allows detention for an initial 24 hours - for identification purposes - of a person who is suspected of a security or public order offence; during this time the family of the detained person should be informed "promptly" (art. 11). There is no right to see a lawyer. The Ministry of Justice of the FRY told the Special Rapporteur's staff that the Constitution sets higher standards than the Criminal Procedure Code and that changes would be made to bring the Code into conformity with the Constitution by the end of 1994.

170. This procedure is not invariably observed where individuals are under investigation for political reasons. The Special Rapporteur's staff were told that it is common for detainees to be ill-treated during the 72-hour period and that the decision on arrest is not always taken by an investigating judge within the required time. In Kosovo, investigation of political cases is by the security services, without a defence lawyer being present when the detained person is questioned by the security services. It is during this interrogation period that ill-treatment takes place. In one case, no decision by the examining judge was taken for 20 days. In several cases, the decisions on detention and on investigation were not delivered to the defence lawyer within

the time limit for lodging an appeal. Furthermore, in one case where the investigating judge had mandated the security service to conduct an investigation, a complaint was made to the District Court in Pristina about brutal methods of investigation. The Deputy President of the Court rejected the complaint, on the grounds that it had no jurisdiction over the security services.

171. An administrative procedure exists for minor offences which allows detention for a maximum of 60 days and fines, to be imposed. These minor offences include offences against public order and public peace and are used by municipal authorities to deal with, inter alia, political demonstrations. The procedure does not provide for a full investigation and defence rights are diminished.

Freedom of assembly and association

172. The Serbian Prosecutor General has asked the Serbian Constitutional Court to ban the Serbian Renewal Movement (Srpski Pokret Obnove (SPO)). This is the second application to ban a political party. The Court is already considering an application to declare the Sandzak Democratic Party an illegal organization under article 42 of the Serbian Constitution. The President of the Constitutional Court informed the Special Rapporteur's staff that the Court would "proceed very cautiously" in considering this first exercise of its power to ban a political party.

173. The initiative to ban the follows a demonstration on 1 June 1993 in Belgrade. The Serbian authorities' response illustrates the difficult position of opposition parties in Serbia. During a debate in the Serbian Assembly on Yugoslavia's international position, a deputy of the opposition Serbian Renewal Party called on President Milosevic to resign. When the deputy left the Chamber he was assaulted and knocked unconscious by a Radical Party deputy. This incident sparked a demonstration in which - according to official figures - 121 persons were detained, one policeman died and 32 persons were injured. Police raided the SPO office, arresting some 40 deputies, officials, members and journalists, including the SPO President, Vuk Draskovic. Non-governmental sources recorded that the police used "indiscriminate force" during and after the demonstration. After breaking up the rally by force, the police beat up more than 250 demonstrators as they attempted to flee, continued to beat those who had fallen and attacked a large number of passers-by.

174. Medical reports received indicate that after his arrest, Mr. Draskovic had signs of severe beating. The Special Rapporteur appealed to the Yugoslav authorities to release him pending trial and allow him to obtain proper medical treatment. Mr. Draskovic was later charged with murder, criminal injury and criminal damage and with assaulting a police officer. On 9 July 1993, the first charge was dropped. In October, the assault charge was also dropped.

175. Gatherings in Kraljevo and Nis, called to protest the arrest of Draskovic and the use of police violence, were banned; the police also questioned SPO members about their political activities. Up to 400 arrests were made in connection with the 1 June and subsequent demonstrations.

Freedom of expression and the media

176. In January 1993, 1,000 employees of Radio-TV Serbia were sent on "enforced holiday". While this practice is increasingly used in response to economic pressures on employers, new staff were later hired and it appears that Radio-TV Serbia used political selection criteria in deciding who should be sent on enforced vacations. The dismissed journalists and technicians included well qualified professionals and those who had publicly condemned "the war-mongering policies" of the State-owned company and its "instigation of national and religious intolerance"; many were also members of an independent trade union. The Special Rapporteur's staff interviewed two former employees, one journalist (a Muslim) and the other a technical specialist (a trade union activist). Both had been professionally recognized by their superiors and both were among media staff criticized on television as "spies", "collaborators" or

"betrayers of Serbia" by V. Seselj, the leader of the ultra nationalist Serbian Radical Party.

177. The Yugoslav Constitution (art. 37) and the Law on Public Information (art. 31) establish the right to correct false information, but Radio-TV Serbia frequently refuses to publish corrections from opposition politicians and the independent press. Specific cases where the right of reply has been refused include requests from TV journalists named by Seselj, (see above) and from Vuk Draskovic, the SPO leader.

178. The Anti-War Centre in Belgrade, a non-governmental organization, has analysed the Yugoslav press to identify the incidence of "hate speech" (writing which incites hatred). The Centre believes that publicly expressed intolerance, insults and threats often lead to physical violence. In a report on Vecernje Novosti, the largest circulation daily, the Centre describes the paper's attitude in these terms:

> "The hate speech is directly reflected in the glorification of the Serbian people, ... and the disparagement and hatred of other peoples, along with pronounced xenophobia ... The disparagement of other peoples and the instigation of hatred towards them are pursued through doubts systematically sown regarding the characteristics and loyalty of national minorities ... in former Yugoslavia."

The Special Rapporteur's staff noted that Radio-TV Serbia includes in its broadcasts material which denigrates ethnic groups and is explicitly discriminatory.

179. Prosecutions are not normally brought against the authors of writings and speeches which incite national or racial hatred. Nonetheless, an investigation is now taking place in the case of Haroun Hadzic, former President of the Sandzak Committee for the Defence of Human Rights. This arises out of a special issue of the Sandzak magazine, which was guest edited by Mr. Hadzic and dealt with human rights violations. The offence alleged is the publication of false information.

180. On 21 September 1993, Dusan Reylic, Foreign Editor of Vreme was abducted from the street in which he lived and detained by unidentified persons for interrogation. This was immediately reported in the press and Mr. Reylic was released. The Special Rapporteur urges the Serbian authorities to take effective steps to investigate and to prosecute those responsible.

181. The impact of hyperinflation on newspaper circulation and hence on public access to information, is demonstrated by figures issued by the Association of Newspaper Publishers. At the end of August 1993, the overall circulation of all daily papers in Serbia and Montenegro was 250,000. Prices were then frozen and sales immediately rose to 400,000. In late October 1993, prices were unfrozen; on 22 October, the price of Borba rose from 2,000 to 15,000 dinars. Circulation dropped sharply.

Discrimination and citizenship

182. Non-governmental sources report that after the December 1992 presidential elections, institutional and non-institutional pressures increased against members of different national communities and confessional organizations in Belgrade.

183. The legal uncertainty surrounding citizenship of the Federal Republic of Yugoslavia encourages discrimination against those who cannot prove that they are citizens, (for discussion of Croatian citizenship law, see para. 115). In principle, the former federal and republican citizenship laws continue to apply (1976 Citizenship Act of SFRY and Socialist Republic of Serbia Citizenship Act 1979, amended in 1983). Under those laws citizens of the former Yugoslavia all held dual citizenship: they were both Yugoslav nationals (citizens of the federal State) and republican nationals (citizens of one of the constituent republics). Those who did not hold Serbian or Montenegran citizenship and who

have not since acquired citizenship of Slovenia, Croatia or Macedonia, have become, de facto, stateless persons. In practice, applications for the acquisition or confirmation of citizenship of the Federal Republic of Yugoslavia are not being dealt with. Those residents of the Federal Republic of Yugoslavia who cannot prove their Serbian citizenship face discrimination in such areas as employment, housing and education, where access may be restricted to citizens. This situation affects two distinct groups: those who, whatever their ethnic origin, are long-term residents of Serbia or Montenegro, but have never taken the formal step of acquiring either citizenship and those displaced persons who have come from another territory of the former Yugoslavia, but do not hold its citizenship. The problem is caused largely by the failure of the authorities to comply with the existing law and the absence of a new citizenship law which would regulate the acquisition and loss of Yugoslav citizenship.[10/]

The situation of refugees

184. There are some 530,000 refugees in Serbia from other territories of the former Yugoslavia (84.2 per cent Serbs, 6.2 per cent Moslems and 1.6 per cent Croats); despite the difficult economic situation, all have equal access with citizens to social security and educational provision. Under the 1992 refugee law, refugee status may be revoked if a refugee, inter alia, refuses to perform military or other assigned duties, which include work assigned by the Refugee Commissariat. Loss of status carries with it loss of humanitarian aid, education and health care.

185. Under new instructions, issued by the Serbian Commissioner for Refugees in May 1993, certain regions of Bosnia and Croatia are designated as "safe municipalities" and applicants from these areas are normally refused refugee status. The "safe municipalities" correspond to the Serb-controlled areas of Bosnia and Croatia. The instructions are consistent with a policy of discouraging the departure of Serbs from these areas, particularly those of military age. The Serb Commissioner for Refugees told the Special Rapporteur's staff that Serbs from areas of Croatia and Bosnia which were "not affected by the war" (for example Knin) while refused refugee status, were not required to leave Serbia. However, the Special Rapporteur notes that in these circumstances they are without any legal basis on which to remain in Serbia. UNHCR has repeatedly expressed its concern about the instructions and stressed that, as a minimum, the authorities should consider all applications on a case-by-case basis.

186. In February 1993, the Conference on Security and Cooperation in Europe (CSCE) mission in Vojvodina received reports of the unlawful recruiting of Serb refugees from the so-called Republic of Serbian Krajina by "armed gangs", who took them from the streets and sent loaded trucks of "volunteers" directly to the front. The Special Rapporteur's staff was informed that after a group of 500 Bosnian Serb refugees arrived in a refugee centre in Sremska Mitrovica in March 1993, the men were taken from the camp and sent to the front, certainly with the knowledge of the camp authorities. As a result of these and similar incidents, refugees of military age are reluctant to apply for refugee status, fearing this will simply serve to bring them to official attention.

187. The Yugoslav Government told the Human Rights Committee in November 1992 that an amnesty would be granted to those who had deserted from the federal army, or who had failed to heed military call up orders, or had participated in mutinies or had failed to obey the orders of the military authorities. However, no amnesty has been granted.

C. The situation in Kosovo

188. The polarization of the Albanian and Serb populations in Kosovo continues. One area affected by this polarization is the judicial system. Albanians lack confidence in the will and ability of the courts to provide an independent and effective remedy and point to the small number of Albanian judges. The CSCE monitors investigated this issue and commented:

> "A major reason for the lack of Albanian judges is the refusal of most Albanians to serve in the courts. Judges must take an oath to the government, which most Albanians feel would give recognition to what they see as an illegal Serb regime."

However, the situation is in reality more complex and is illustrated by the experience of the Prizren District Court. Three Albanian judges have refused to serve as judges, but in June 1993, two others, both well qualified, were rejected by the Serbian Assembly in June 1993 after being described as "separatist murderers".

Ill-treatment and torture

189. The Special Rapporteur has continued to receive reports that the Serbian police and state security services act in excess of their powers and in breach of the law in their dealings with the Albanian population in Kosovo. These reports have increased significantly since July 1993.

190. In May 1993, some 30 Albanian prisoners were serving sentences for offences involving illegal political activities; this figure does not include those given administrative sentences of up to 60 days. New trials have since taken place and are continuing; most frequently the defendants are charged under article 116 of the Serbian Criminal Code with acts against the territorial integrity of Yugoslavia. In October 1993 Albanian sources reported that 93 people had been detained since July and were in custody; they included former officers of the Yugoslav National Army, as well as members of the Democratic League of Kosovo.

191. Two former detainees told the Special Rapporteur's staff that in August 1993 they had been systematically beaten to induce them to confess to membership of illegal Albanian separatist movements and to provide information about armaments. In each case, the individual was asked whether he had arms himself. When this was denied, he was told to obtain gun(s) and produce them to the police.

192. Albanian human rights organizations have reported deaths following detention and ill-treatment by the police. One such case, that of Adem Zeqiraj from Dakovica, was investigated by the CSCE monitors. Mr. Zeqiraj was arrested on 17 December 1992 during a search for firearms at his father's house. The next day he was admitted to the Dakovica hospital and then transferred to Pristina hospital, where he died on 19 December. A medical report from Dakovica hospital recorded that he had been admitted with traumatic shock, internal bleeding and a serious kidney condition.

193. The Special Rapporteur's staff were told by the Serbian Ministry of the Interior that 52 attacks against the police had taken place between 1 January and 30 September 1993. Two police had been killed and 15 wounded. The Deputy Minister denied that Albanians who had been in contact with CSCE monitors had been arrested. However, this denial is inconsistent with statements made to the Special Rapporteur's staff by four people who were questioned by police after the departure of the CSCE monitors.

194. The Special Rapporteur has also received reports of police abuse in the course of searches for illegal arms. Such searches are frequent. There is frequently damage to property, including the destruction of national flags, symbols and teaching materials and removal of money and valuables.

Housing evictions

195. The Special Rapporteur's staff have received information about the eviction of Albanians from apartments in which they were lawfully resident, often without legal proceedings, in order to accommodate Serb families. In one case, a worker from the JP Elektropower enterprise of Kosovo, was evicted from the apartment of which he was the legal tenant, by two police on 7 December 1992. He remains employed, has held his job for 20 years and occupied the apartment as a member of his workers' association. The apartment was then

occupied by a Serb family. Legal proceedings have commenced in the Pristina court.

Use of language

196. Albanians are a "national minority" under the federal Constitution and have a constitutional right to use their language in the areas in which they live and in court proceedings. The 1991 Serbian Law on the Official Use of Language and Alphabets gives municipalities the discretion to decide which languages shall be in official use. Given the use of Albanian before 1990 and the fact that Albanians represent around 90 per cent of the Kosovo population, the Special Rapporteur believes the use of Albanian in all official matters should be normal practice, regardless of Albanian representation on municipal bodies. In practice, there has been a decline in the official use of the Albanian language.

197. The Special Rapporteur notes the issue of identity cards, birth and marriage certificates and other public documents in the Serbian language. The Special Rapporteur's staff took copies of identity cards issued in Pristina: in 1984 the cards were in three languages (Albanian, Serbo-Croat and Turkish); in 1990 in two languages (Serbo-Croat and Albanian) and in 1993 in Serbian only.

198. In the Prizren District Court proceedings are now held only in Serbian, although 95 per cent of criminal defendants are Albanian. Before 1990, Albanian and Serbo-Croat were of equal status, the criterion being the language of the defendant. While in principle a complaint may be made in Albanian, in practice it will not be dealt with because there is only one translator. A complaint made by an Albanian to the Prosecutor of the Pristina District Court, alleging ill-treatment at the hands of the police, with a medical certificate attached, was returned the same day (27 August 1993) by the Deputy Prosecutor, with a note saying: "We return your complaint ... so it may be translated into the Serbo-Croat language".

199. Throughout the territories of the former Yugoslavia, street names continued to be changed in 1993 to reflect recent political changes. While in many areas this is not controversial, the Special Rapporteur's staff were told of changes in Pristina and Prizren which had the effect of giving a Serbian character to areas in which the overwhelming majority of the population is Albanian. In Prizren, he is informed that 90 per cent of names have been changed since 1991. For example: "Bayran Curri" (an Albanian leader) to "27 March" (the date of the 1992 Serbian constitution); "League of Prizren" (Liohja e Prizreni) to "Car Dushani" (a Serb king). Similar changes have been made in the Hungarian areas of Vojvodina.

Education

200. The Special Rapporteur has received reports of continuing harassment and use of force by the police against teachers and pupils working in the "parallel" education system.

201. According to the President of the Association of Albanian Teachers, during the 1992-1993 school year, 274,280 pupils attended primary "parallel" schools. This figure contrasts with official statistics showing that in 1990, more than 295,000 Albanian pupils were enrolled in state primary, secondary and tertiary education. It will be recalled that the "parallel" schools started after August 1990, when teachers refused to accept a new curriculum drawn up by the Ministry of Education in Belgrade and some 18,000 of them lost their jobs. The new curriculum is compulsory throughout Serbia and replaces, inter alia, curricula prepared by the educational councils of Kosovo and Vojvojdina. The councils were abolished as part of a broad centralisation process and with the aim of creating a common teaching system for all schools in Serbia. The "parallel" system functions at the primary, secondary and tertiary levels. Teaching is in Albanian, according to a curriculum which is not recognized by the Serbian Ministry of Education. The schools issue their own diplomas, which are, in turn, not recognized by the Serbian educational authorities. Though teachers receive no official salary, teaching at the primary level (which is

compulsory under Serbian law) largely continues to take place in school buildings, the expenses of which are paid by the education authorities. Secondary and tertiary education takes place in private houses and premises.

202. The Serbian Minister of Education told the Special Rapporteur's staff that teaching in the Albanian language is available in the state system and both the Serbian Constitution and Serbian education laws give national minorities a right to education in their own languages. The Minister said that the teachers had refused to accept curricula decided in Belgrade. In June 1990 all national minorities had been invited to propose their own teaching programmes in certain culturally specific subjects to be included in a "core" Serbian curriculum: literature, history, applied arts and music. The minorities in, for example, Vojvodina had done so, but the Albanians had not.

203. In March 1993, the former Rector of the University of Pristina, Professor Ejup Statovci, was arrested to serve a sentence imposed in 1992, when he was convicted on a public order charge after writing a letter to the current Rector asking for the university buildings "which were taken by force" to be returned to Albanian teaching staff and students. The Special Rapporteur notes with concern that the conflict surrounding the University of Pristina continues and is contributing to the prevailing climate of tension.

204. Views expressed recently by the Minister of Education and by the current Rector of the University of Pristina illustrate the intellectual climate. The Minister described education as the "sphere in which a country manifests its identity" and criticized the University of Pristina and the former Kosovo Academy of Sciences before 1990 as "centres of actual and theoretical separatism". The Rector of the University, Professor Radivoje Popovic, speaking in May 1993, referred to changes in the university since 1990 in these terms:

> "Our first task was to remove the hatred for all that is Serbian which had been accumulated here for decades ... This factory of evil, established with the basic intention of destroying Serbia and the Serbian name ... is now destroyed thanks to the coordinated action of the Government and university personnel ... Our university has the ultimate object of renewing Serbian thought in Kosovo and Metohija."

205. Throughout 1993 the police have entered "parallel" schools, questioned teachers and students and in some instances threatened or used violence. On 21 June, the CSCE monitoring team in Pec reported a "campaign" against the parallel schools to coincide with the end of the school year. Eight schools were searched for graduation certificates issued in the name of the Republic of Kosovo. In Klina, the police searched the school and then went to the local Democratic League of Kosovo (LDK) office where a meeting was in progress which included a number of teachers. The 12 people present were arrested; 8 were beaten on the head and arms and 2 were beaten more severely, while being questioned about the school system. Similar police actions marked the start of the new school year in September 1993.

D. Sandzak

206. In his February 1993 report, the Special Rapporteur expressed concern about the position of the Muslim community in the Sandzak region of Serbia and Montenegro and noted the particular difficulties of those living on the frontier with Bosnia: in Pljevlja, Prijepole, Priboj, Bjelo Polje and the Bukovice region.

207. Non-governmental sources recorded the exodus of more than 3,000 Muslim citizens from the municipality of Priboj between June 1992 and February 1993 and noted as a cause the "uncontrolled presence of military and paramilitary Serbian groups from Bosnia" and their links to local militant groups. Serbian irregular formations from Bosnia continued to cross the territory of Serbia and, in the presence of the Yugoslav army, maltreat, steal and destroy the property of Muslim citizens.

Abductions

208. The Special Rapporteur in his February 1993 report, noted the abduction in October 1992 of 16 Muslims from Sjeverin, taken from the bus on which they were travelling to work in Priboj, at a point where the road passes through Bosnian territory. The abduction was connected to a planned exchange with Serbs held by Bosnian forces. The exchange did not take place. It is now feared that all 16 were killed in Visegradska Banja.

209. On 16 February 1993, Bosnian-Serb soldiers abducted 12 members of one family from their homes in Seliste village, in Bukovice. Six, all aged over 70, were later released from the town of Cajnice and six remained in captivity, including two children under five. Latif Bungur, aged over 90, had died; his body was left unburied outside his house.

210. On 19 February 1993, 19 Muslims and a Croat were taken from the Belgrade-Bar train (No. 671) at Strpci station, which is on Bosnian territory controlled by the Bosnian Serb army. A group of armed men, in camouflage uniforms with chetnik insignia, checked the identities of passengers and the Muslims were taken to a military truck and driven away. It is not known where they were taken and they are reported to have "disappeared". A government commission was established in Belgrade, but has not reported. Milan Lukic, reported to be a Serb paramilitary commander in Bosnia, was briefly arrested in connection with the kidnapping. On 19 October 1993, a commission of investigation was established by the Montenegro Parliament.

211. More than 800 Muslims have been forced to leave their homes in the Bukovica area because of violent behaviour by members of the Yugoslav army and by the army of Bosnian Serbs in the Montenegran border area.

212. In May 1993 the Humanitarian Law Fund, a non-governmental organization reported some continuing incidents of violence and harassment against the Muslim population, but said that the general situation in Sandzak had become calmer.

E. Vojvodina

213. Involuntary migration has decreased, but harassment of members of minority groups in Vojvodina by radical Serbs continued. Since 1991 more than 145,000 refugees and displaced persons have entered the region, including Serbs from Bosnia, Krajina and Slavonia. Many of those who are now leaving Vojvodina do so under the terms of the September 1992 agreement between the Yugoslav and Croat Governments, which included provisions for "voluntary and humanitarian resettlement" of the Croat population.

214. In March 1993, the CSCE mission to Vojvodina reported continuing threats and intimidation against the non-Serb population by Serb extremists, with the aim of "replacing" them with Serbian refugees from Bosnia and Croatia. There had been telephone threats, attempts to blow up houses and other forms of intimidation, encouraged by radical Serb political groups.

215. However non-governmental sources report that some action has been taken by the local police to protect members of minorities against radical Serb groups. They point to the case of Hrtkovci, a village whose population dropped from 2,899 (1,100 Croats, 550 Serbs, 500 Hungarians and 450 Yugoslavs) to 2000 after 1991. By 1993, 350 Croat families had left, taking with them their Serb and Hungarian family members and been replaced by Serb refugees, from Croatia and Bosnia. Only 600 Croats and Hungarians remained in the village. Intimidation, at gunpoint and by telephone threats, had come from Serb extremist groups connected to the Serbian Radical Party. The homes of 168 Croats who had left were forcibly entered by Serb groups, who then installed Serb refugees in the houses. Efforts were made by the local police to regulate the illegal occupation of property, but they were forcibly resisted by radical Serb groups. Police did prevent an attempt to change the name of Hrtkovci to "Srbislavci". To reduce tension, some extremist Serbs have been resettled by the authorities in other areas.

F. Montenegro

216. Montenegran officials criticized previous reports by the Special Rapporteur because they had not distinguished between the situation in Montenegro and Serbia and the impression was given that the same violations were taking place in both republics.

217. The Constitution of the Republic of Montenegro provides that "the citizens of Montenegro have the right to address themselves to international institutions in order to protect their freedoms and rights guaranteed by the present Constitution" (art. 44). Furthermore, article 74(2) provides the same right for the "members of national and ethnic groups". Nevertheless, a suggestion by an opposition party that Montenegro should ratify the Optional Protocol to the International Covenant on Civil and Political Rights was rejected by the Parliament, reportedly because the Republic of Montenegro is a federal entity of the Federal Republic of Yugoslavia and, therefore, does not have the competence to ratify such a treaty. However, article 7 of the Yugoslav Federal Constitution provides that "within its competence, a member republic may conclude international agreements, but not to the detriment of the Federal Republic of Yugoslavia or any of its member republics".

218. Protection of the Montenegran historical and cultural identity is a major issue among the Montenegran population. Accordingly, on the occasion of the commemoration of the birth of the poet Njegos that took place first in Belgrade and then in Cetinje in October 1993, parts of the audience reacted when it was declared that he was a Serbian poet, and allegedly insulted the President of Montenegro who was attending the Cetinje celebration. This was followed by a massive police reaction. Cafes and apartments were searched. Twenty-four people were arrested and four were detained. Criminal proceedings were introduced against 24 individuals. According to a defence lawyer, criminal procedure had been violated several times: one person was detained for two days illegally without a decision on detention. Furthermore, the investigating judge did not inform the defence lawyers of the date and time of the hearing of the accused after the charges had been brought, or of the date and time of the hearings of the witnesses. Finally, the decision to bring charges was taken before the decision on beginning an investigation became effective.

219. The Special Rapporteur's staff were told of an unsuccessful attempt to establish an independent television channel and radio station, which failed in September 1993 after the withdrawal of the licence which had previously been granted by the competent federal authorities.

220. The Montenegran Republic continues to maintain open borders for refugees. There are 60,000 registered refugees, largely Muslims and Serbs. The refugees, termed "displaced persons", have equal access to health care and social security provisions. Unlike in Serbia, there is no requirement that refugees work.

221. At the beginning of October 1993, the local press reported that a mosque had been damaged near Bar. The perpetrators have not been found.

The humanitarian situation

222. By September 1993, inflation had reached an official monthly rate of 1860 per cent, with an annual rate estimated by the London Economist at 363 quadrillion (363,000,000,000,000,000 per cent). In August and September, the value of the Yugoslav dinar depreciated on an hourly basis. While inflation at these levels affects all parts of society, its gravest impact is on the elderly, the sick, children and all those without access to material help or external financial support ("hard" currency).

223. The World Health Organization (WHO) office in Belgrade describes the health situation as "a catastrophe". There is a serious shortage of essential pharmaceutical products in Serbia and Montenegro. The extensive black market and a growing and flourishing private sector do not assist vulnerable sectors of the society. Overall mortality rates have risen by 10 to 20 per cent in the

last two years. Suicides among the elderly are up by a factor of four. Tubercolosis, which is accepted as an indicator of low levels of hygiene malnutrition and overcrowding, has also increased fourfold. A reactivation of old cases and new infections, particularly among the refugee population, has been observed. Deaths among mental and neurological patients have increased - from suicide, exposure to cold and disease. Disinfectant is not available for hospitals, with a consequent increase in disease. The public health system is bankrupt. Patients must therefore bring their own medical supplies, bandages as well as drugs. For many, this is impossible. The situation is expected to worsen dramatically during winter, particularly for the most vulnerable - the old and the very young. Much of Belgrade housing is connected to centralized municipal heating systems and many apartments have no separate means of heating; the stated official policy in October 1993 was to keep municipal heating at 5°C during the winter months.

224. Taking this situation into account, it is obvious that international humanitarian assistance for the Federal Republic of Yugoslavia is essential. Medicines, food and essential humanitarian supplies are exempted from the sanctions which were imposed on Yugoslavia by the Security Council in May 1992. In their discussions with international humanitarian agencies in Belgrade, as well as with Yugoslav officials and medical personnel, the Special Rapporteur's staff were informed about the difficulties which international agencies and non-governmental organizations are encountering in transporting medicines and food.

225. Under the April 1993 Guidelines of the Sanctions Committee (S/AC.27/1993/CRP.3/Rev.2), the Committee may consider communications from intergovernmental humanitarian agencies and Member States. Where Yugoslav institutions wish to import humanitarian supplies, the overseas manufacturer must approach the Sanctions Committee through its own Government. The Committee receives large numbers of communications, perhaps 1,000 a week. Delays occur both at the national level and after a communication has been received by the Committee. Both UNHCR and WHO informed the Special Rapporteur that their work has been adversely affected by the procedural delays of the Sanctions Committee. Even for those established agencies, which are both familiar with the procedure and known to the Sanctions Committee, delays of two months have been normal. In the case of some intergovernmental agencies and their partner non-governmental organizations, steps have recently been taken to resolve the problem. But for individual NGOs the delays are normally longer and may result in, for example, donated drugs approaching their "use by" date and having to be sent elsewhere. The Special Rapporteur's staff were told that significant non-governmental aid is lost because the procedure deters smaller donors.

226. All medicines and humanitarian supplies destined for the Muslim areas of east Bosnia must also be cleared by the Sanctions Committee because they transit Yugoslavia. Both UNHCR and WHO gave as an example of extreme delay a shipment containing equipment required by surgeons operating in the Srebrenica hospital, which is under fire; it included bullet proof vests for the doctors. The application, which had been made in June 1993 was queried by the Sanctions Committee, returned to the submitting State and by mid October, four months later, had not been cleared.

IV. CONCLUDING OBSERVATIONS

Bosnia and Herzegovina

227. The onset of winter presages a humanitarian disaster of immense proportions. There are no peoples of Bosnia and Herzegovina who can remain unaffected by such a tragedy - hunger and cold recognize no differences of ethnic origin or social role. The Special Rapporteur accordingly strongly condemns all actions which block, interfere with or in any way delay the distribution of all forms of humanitarian aid. He also urges the international community to respond generously and speedily to the needs of Bosnia and Herzegovina by providing humanitarian aid to the extent and in the forms required. The Special Rapporteur cannot over-emphasize that people will die without international humanitarian assistance.

228. The Special Rapporteur has already warned that a prolongation of the conflict in Bosnia and Herzegovina would lead to the commission of atrocities by all sides and the persecution of peoples of every ethnic origin. He is greatly saddened that this situation has now come to pass and unequivocally condemns every violation of international human rights and humanitarian law. Moreover, while fully acknowledging the suffering of all peoples, he must again draw particular attention to the appalling extent of persecution by "ethnic cleansing" against those of Muslim ethnic origin. He reminds the world that the Muslim community in Bosnia and Herzegovina is threatened with extermination.

229. The Special Rapporteur condemns the continuing commission of the crime of rape and of all other forms of sexual abuse.

230. The Special Rapporteur reiterates his conviction that the perpetrators of violations of human rights and humanitarian law must be held accountable in law and punished. He expects that the international community will do all that is required of it in order to ensure that the International Tribunal to prosecute violations of humanitarian law in the former Yugoslavia can achieve its goals speedily and effectively.

Croatia

231. Further to his letter dated 1 October 1993, the Special Rapporteur once again requests the Croatian authorities to ensure that those responsible for the contravention of human rights and international humanitarian standards in the Medak pocket operation be punished and that steps be taken to prevent such incidents in the future.

232. The Special Rapporteur notes with concern the continuing discriminatory practices against ethnic Serbs in Croatia, in particular with regard to arbitrary detention, the right to a fair trial, citizenship, illegal evictions and the destruction of property.

233. The Special Rapporteur is also deeply concerned at the increasing hostility and discrimination against Muslims in Croatia and hopes in this respect that the responsible Government organs will take all the necessary measures in order to observe international human rights standards.

234. The Special Rapporteur is concerned about the contribution of the media to the prevailing climate of inter-ethnic hostility through misinformation and indoctrination and requests that the Government take the necessary measures for ameliorating the situation.

235. The Special Rapporteur requests that in the conduct of hostilities the parties to the conflict in the UNPAs refrain from all further shelling of civilian objects.

236. In areas under the control of the so-called "Republic of Serbian Krajina", the Special Rapporteur is deeply concerned by the militarization of the population, the collapse of the rule of law and the absence of conditions for the repatriation of displaced persons.

Federal Republic of Yugoslavia

237. The Special Rapporteur notes with concern the articulation of ethnic hatred in public life and in the media. This creates a climate in which acts of discrimination are encouraged and condoned. While Yugoslav law forbids incitement to racial or national hatred, the law is not enforced and, in any event, other and more effective means are required to prevent the promotion of discrimination by public authorities and institutions. In this context special attention should be given to the development of independent, democratically-oriented communications media and in particular the electronic media.

238. The Special Rapporteur regrets the decision of the federal authorities to refuse to extend the mandate of the CSCE human rights missions in Sandzak, Kosovo and Vojvodina. The missions played an important and constructive stabilizing role in situations of tension and potential conflict, especially in Kosovo. They were also an important source of objective and accurate information on the human rights situation.

239. Abuse of power and the use of excessive force by the Serbian police has been noted in this report. The Special Rapporteur believes the Yugoslav and Serbian authorities should amend the law to allow immediate access to a lawyer of persons after arrest, should investigate impartially and effectively all cases in which there is reason to believe power has been abused or excessive force used and should prosecute those responsible.

240. While noting the large numbers of refugees within Yugoslavia and the fact that they have full access to social and health provisions, the Special Rapporteur believes the Serbian authorities should review a major weakness in these procedures. They should thus rescind their May 1993 instruction not to register as refugees, men of military age from those areas of Bosnia and Croatia regarded by the authorities as "safe municipalities": without registration they may not benefit from the Welfare provisions of the State.

241. The Special Rapporteur notes reports of the deaths of Albanians as a result of injuries sustained while in police detention in Kosovo. He draws the attention of the Serbian authorities are to their duty under international law to carry out exhaustive and impartial investigations with a view to identifying and punishing those responsible. The Special Rapporteur concludes that the police in Kosovo routinely illtreat those arrested for political reasons. In other areas of activity, for example during searches for illegally held arms, the police use excessive force.

242. There also is a serious abuse of power by the police in the harassment and even physical assault, of Albanians engaged in the exercise of the rights in the educational, political and trade union fields.

243. The Special Rapporteur has considered the present situation in which Albanian children and students attend "parallel" schools and colleges outside the Serbian state system and whose examinations are not recognized by the Serbian Ministry of Education. The Special Rapporteur believes the Serbian authorities should recognize years of education acquired in these institutions, thus avoiding the marginalization of a generation of Albanian students.

244. The Special Rapporteur notes the need for medicines and humanitarian assistance for vulnerable groups within Yugoslavia. Ways and means must be found to ensure that medicines and other items exempted from sanctions reach vulnerable groups before the heights of winter. The Special Rapporteur urges that procedures within the Sanctions Committee be reviewed without delay.

Notes

1. For an account of the gross violations of human rights which accompanied the start of this campaign of "ethnic cleansing" see the Special Rapporteur's first two reports (E/CN.4/1992/S-1/9 and E/CN.4/1992/S-1/10).

2. The Secretary General, assisted by the staff of the Special Rapporteur, has submitted a report on rape and abuse of women in the territory of the former Yugoslavia (E/CN.4/1994/5).

3. See E/CN.4/1994/4, of 19 May 1993 Section I. An on-site investigation of the area is also planned by the Commission of Experts pursuant to Security Council resolution 780 (1992). See the Commission's second interim report, S/26545, of 6 October 1993.

4. See E/CN.4/1994/8 of 6 September 1993.

5. See E/CN.4/1994/3 of 5 May 1993.

6. In addition to the investigation by the field staff of the Special Rapporteur, reference is here made to the UNPROFOR "Report on the Medak operation and assessment of human casualties and material damages".

7. See also the concluding observations of the Committee on the Elimination of Racial Discrimination, adopted at its 1010th meeting (forty-third session), held on 19 August 1993, contained in the report of the Committee to the General Assembly (forty-eighth session) (A/48/18, para. 502); and the observations of the Committee on Human Rights, adopted at its 1205th meeting (forty-sixth session), held on 6 November 1992 (CCPR/C/79/Add.15, para. 7).

8. See para. 183.

9. The Law on the Provisional Use of Apartments of 4 December 1991 (Narodne Novine, No. 66, 9 December 1991, p. 2075; unofficial translation; referred to as the "Law on Provisional Use") was enacted by the Croatian legislature "in order to care for displaced persons, refugees, persons who defended the Republic of Croatia and members of their family" (art. 1, unofficial translation). The primary purpose of this law is to regulate the provisional use of apartments which are owned or possessed by the Republic of Croatia and which are "empty, emptied or abandoned". Towards this end, the Law on Provisional Use (art. 3) establishes two categories of Commissions on Provisional Use: one for apartments pertaining to civilian entities and the other for apartments formerly owned by the Yugoslav National Army (JNA). In the latter category, there are 38,000 apartment units formerly belonging to the JNA, the administration of which was transferred to the Croatian Ministry of Defence pursuant to an Agreement of 22 November 1991 between the JNA and the Croatian Government. The situation of tenants in these apartments has been the source of considerable problems and, therefore, it has been the particular focus of the field staff in their investigations.

10. See para. 115, 183.

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